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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO COURTHOUSE

DEMETRIC DI-AZ, OWEN DIAZ and  
LAMAR PATTERSON,

Plaintiffs,

vs.

TESLA, INC. DBA TESLA MOTORS, INC.;  
CITISTAFF SOLUTIONS, INC.; WEST  
VALLEY STAFFING GROUP;  
CHARTWELL STAFFING SERVICES,  
INC.; NEXTSOURCE, INC.,

Defendants.

Case No. 3:17-cv-06748-WHO  
*[Removed from Alameda Superior Court,  
Case No. RG17878854]*

**DECLARATION OF JUAN ARANEDA IN  
SUPPORT OF DEFENDANT  
NEXTSOURCE, INC.'S MOTION FOR  
SUMMARY JUDGMENT OR, IN THE  
ALTERNATIVE, MOTION FOR  
SUMMARY ADJUDICATION OF ISSUES**

**Date:** December 18, 2019  
**Time:** 2:00 p.m.  
**Courtroom:** 2  
**Judge:** Hon. William H. Orrick

Amended Complaint Filed: December 26, 2018

**DECLARATION OF JUAN C. ARANEDA**

I, Juan C. Araneda, declare as follows:

1. I am an attorney with the law firm of Fisher & Phillips LLP, attorneys of record for Defendant nextSource, Inc. (“Defendant”) in this action. I am duly licensed to practice law in the State of California and before the United States District Court for the Northern District of California. I have personal knowledge of the facts stated in this declaration and, if called as a witness, could competently testify to these facts.

2. Attached hereto as **Exhibit “A”** is a true and correct copy of the Amended Complaint for Damages in this matter filed on December 26, 2018.

3. Attached hereto as **Exhibit “B”** are true and correct copies of excerpts and exhibits from the deposition transcript of Kevin McGinn, taken on June 17, 2019.

4. Attached hereto as **Exhibit “C”** are true and correct copies of excerpts and exhibits from the deposition transcript of Wayne Jackson, taken on May 17, 2019.

5. Attached hereto as **Exhibit “D”** is a true and correct copy of excerpts and exhibits from the deposition transcript of Owen Diaz, Volume I, taken on May 22, 2018.

6. Attached hereto as **Exhibit “E”** is a true and correct copy of excerpts and exhibits from the deposition transcript of Owen Diaz, Volume II, taken on December 4, 2018.

7. Attached hereto as **Exhibit “F”** is a true and correct copy of excerpts and exhibits from the deposition transcript of Owen Diaz, Volume III, taken on June 21, 2019.

8. Attached hereto as **Exhibit “G”** is a true and correct copy of excerpts and exhibits from the deposition transcript of Monica DeLeon, taken on December 6, 2018.

9. Attached hereto as **Exhibit “H”** is a true and correct copy of excerpts and exhibits from the deposition transcript of Victor Quintero, taken on June 7, 2018.

10. Attached hereto as **Exhibit “I”** is a true and correct copy of excerpts and exhibits from the deposition transcript of Edward Romero, taken on November 30, 2018.

11. Attached hereto as **Exhibit “J”** is a true and correct copy of excerpts and exhibits from the deposition transcript of Tamotsu Kawasaki, taken on October 9, 2019.

12. Attached hereto as **Exhibit “K”** is a true and correct copy of excerpts and exhibits

1 from the deposition transcript of Annalisa Heisen, taken on May 29, 2019.

2 13. Attached hereto as **Exhibit “L”** is a true and correct copy of excerpts and exhibits  
3 from the deposition transcript of Ludivina Ledesma, taken on June 6, 2019.

4 I declare under penalty of perjury under the laws of the State of California and the United  
5 States of America that the foregoing is true and correct. Executed this 29th day of October 2019  
6 in San Francisco, California.

7  
8  
9 /s/ Juan C. Araneda

JUAN C. ARANEDA

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## EXHIBIT A



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DEMETRIC DI-AZ, OWEN DIAZ AND LAMAR PATTERSON

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

DEMETRIC DI-AZ, OWEN DIAZ and  
LAMAR PATTERSON,

Plaintiffs,

v.

TESLA, INC. DBA TESLA MOTORS, INC.;  
CITISTAFF SOLUTIONS, INC.; WEST  
VALLEY STAFFING GROUP;  
CHARTWELL STAFFING SERVICES, INC.;  
NEXTSOURCE, INC.; and DOES 1-10,  
inclusive,

Defendants.

Case No. 17-cv-06748-WHO

AMENDED COMPLAINT FOR DAMAGES

1. Racial Discrimination, Harassment, Retaliation, Failure to Prevent, Constructive and Wrongful Termination in Violation of 42 U.S.C. § 1981;
2. Racial Discrimination in Violation of the Unruh Civil Rights Act;
3. Retaliation - Unruh Civil Rights Act;
4. Threats of Violence in Violation of the Ralph Civil Rights Act;
5. Threats of Violence - Bane Act;
6. Interference with Constitutional Rights in Violation of the Bane Act;
7. Whistleblower Retaliation;
8. Racial Harassment under FEHA;
9. Racial Discrimination under FEHA;
10. Retaliation under FEHA;
11. Failure to Prevent under FEHA;
12. Negligent Infliction of Emotional Distress;
13. Intentional Infliction of Emotional Distress;
14. Negligent Hiring Retention and Supervision;
15. Wrongful Termination; and
16. Constructive Discharge.

JURY TRIAL DEMANDED

## **INTRODUCTION**

1  
2 1. Even amongst the giants of California’s Silicon Valley, Tesla, Inc. stands out as  
3 an innovative and groundbreaking company that is at the forefront of the electric vehicle  
4 revolution. As a result, Owen Diaz, his son Demetric Di-az, and Lamar Patterson were thrilled  
5 when they landed work at Tesla’s production factory, located in Fremont, California.

6 2. Instead of a modern workplace, however, Plaintiffs encountered a scene straight  
7 from the Jim Crow era. Although the men worked in different areas of the factory, all three were  
8 targets of racially motivated abuse, including the frequent use of racial slurs. Plaintiffs  
9 complained to their supervisors, but Tesla, Inc., took no action. Plaintiffs quickly learned that  
10 Tesla’s progressive image was a façade papering over its regressive, demeaning treatment of  
11 African-American employees.

## **PARTIES**

12  
13 3. Defendant Tesla, Inc., d.b.a. Tesla Motors, Inc., (hereinafter “Tesla”) is a  
14 publicly-traded Delaware corporation whose principal place of business is located in Palo Alto,  
15 California. Tesla designs, manufactures, and sells electric vehicles. One of Tesla’s vehicle  
16 manufacturing facilities, also known as the “Tesla Factory,” is located at 45500 Fremont  
17 Boulevard in Fremont, California. The harassing conduct at issue in this case took place at the  
18 Tesla Factory in Fremont. Due to Tesla’s ownership of the facility, its day-to-day managerial  
19 role in the facility, its right to hire, fire and discipline the employees, and its control of all terms  
20 and conditions of Plaintiff’s employment, Tesla is Plaintiffs’ joint employer, which provides  
21 employment pursuant to contract.

22 4. Defendant Citistaff Solutions, Inc. (hereinafter “Citistaff”) is a California  
23 corporation whose principal place of business is located in Orange, California. Citistaff is a  
24 staffing company that provides trained employees to businesses for short-and long-term  
25 assignments, and therefore provides employment pursuant to contract. When Citistaff’s  
26 employees are sent to work at their client’s sites, they receive paychecks from Citistaff. Citistaff  
27 retains control over hiring and firing decisions and also selects the locations where its employees  
28 work. Plaintiffs are informed and believe and on that basis allege that in addition to being joint

1 employers, Defendants Tesla and Citistaff are alter egos and/or integrated enterprises such that  
2 the actions of one entity can be and are attributable to the other entity.

3 5. Defendant West Valley Staffing Company (hereinafter “West Valley”) is a  
4 staffing corporation with corporate offices in Sunnyvale, California. West Valley provides  
5 trained employees for short and long-term assignments to other businesses, and therefore  
6 provides employment pursuant to contract. When West Valley employees are sent to work at  
7 other business’ sites, they receive paychecks from West Valley, West Valley retains control over  
8 hiring and firing decisions, and also selects the locations at which its employees work. Plaintiffs  
9 are informed and believe and on that basis allege that in addition to being joint employers,  
10 Defendants Tesla and West Valley are alter egos and/or integrated enterprises such that the  
11 actions of one entity can be and are attributable to the other entity.

12 6. Defendant Chartwell Staffing Services Inc. (hereinafter “Chartwell”), doing  
13 business as Chartwell Staffing Solutions, is a staffing corporation with corporate offices in San  
14 Jose, California. Chartwell provides employees for short and long-term assignments to  
15 businesses in the United States, and therefore provides employment pursuant to contract.  
16 Plaintiff Lamar Patterson applied for a Tesla position through Chartwell. He received all relevant  
17 training and orientation directly through Tesla, clocked in and out using Tesla’s timekeeping  
18 system, and Tesla maintained power over hiring and firing decisions. Plaintiff Lamar Patterson  
19 selected to work for Tesla, rather than being assigned a location by Chartwell. Plaintiffs are  
20 informed and believe and on that basis allege that in addition to being joint employers,  
21 Defendants Tesla and Chartwell are alter egos and/or integrated enterprises such that the actions  
22 of one entity can be and are attributable to the other entity.

23 7. Defendant nextSource, Inc. (hereinafter “nextSource”) is a Delaware corporation  
24 with its principal place of business located in New York City, New York. nextSource provides  
25 contract employees from staffing corporations, such as Defendant Citistaff, to contracting  
26 companies, such as Defendant Tesla. nextSource accordingly provides employees pursuant to  
27 contract. In addition, nextSource provides human resources functions to the contracting  
28 businesses and staffing agencies, has power to make hiring and firing decisions, and to select the

employees who work at a particular contracting company. Plaintiffs are informed and believe, and on that basis allege, that in addition to being joint employers, Defendants nextSource, Citistaff, and Tesla are alter egos and/or integrated enterprises such that the actions of one entity can be and are attributable to the other entity.

8. Plaintiff Demetric Di-az (hereinafter “Demetric”) was employed as a Production Associate jointly by defendants West Valley and Tesla from approximately August of 2015 through October of 2015. Demetric was placed by West Valley at the Tesla Factory in Fremont, California. Demetric is, and at all relevant times herein was, an adult African-American resident of California.

9. Plaintiff Owen Diaz (hereinafter “Owen”) was employed as an Elevator Operator jointly by defendants Citistaff, nextSource, and Tesla between approximately June 2015 and May of 2016. Owen was placed by Citistaff and nextSource at the Tesla Factory in Fremont, California. Owen is, and at all relevant times herein was, an adult African-American resident of California.

10. Plaintiff Lamar Patterson (hereinafter “Lamar”) was employed as an Elevator Operator jointly by defendants Chartwell and Tesla between approximately January 2016 and August 2016. Lamar is, and at all relevant times herein was, an adult African-American resident of California.

11. Each Defendant is sued individually and as the agent or employee of every other Defendant acting within the course and scope of said agency or employment, with the knowledge or consent of the other co-Defendants.

#### **JURISDICTION AND VENUE**

12. This action is based on Plaintiffs’ claims of employment discrimination against Defendants, which arise under the Civil Rights Act of 1866 (42 U.S.C. § 1981). This court has jurisdiction over Plaintiffs’ federal claims pursuant to 28 U.S.C. § 1331.

13. This court also has supplemental jurisdiction over Plaintiffs’ related state law claims under 28 U.S.C. § 1367. Plaintiffs’ state law claims arise from the same common nucleus

1 of operative facts as the underlying federal claims. Resolving all state and federal claims in a  
2 single action serves the interests of judicial economy, convenience, and fairness to all parties.

3 14. This Court has personal jurisdiction over defendant Tesla, which is a corporation  
4 incorporated in the state of Delaware with its corporate offices and principal place of business  
5 located in Fremont, California.

6 15. This Court has personal jurisdiction over defendant Citistaff, which is a  
7 corporation incorporated in the State of California with its corporate offices and principal place  
8 of business located in Newark, California.

9 16. This Court has personal jurisdiction over defendant West Valley, which is a  
10 corporation incorporated in the State of California with its corporate offices and principal place  
11 of business located in Sunnyvale, California.

12 17. This Court has personal jurisdiction over defendant nextSource, which is a  
13 corporation incorporated in the state of Delaware with its corporate offices and principal place of  
14 business located in New York City, New York. The acts and omissions of defendant nextSource  
15 complained of herein occurred in Defendant Tesla's Fremont, California factory.

16 18. Venue is proper in this court pursuant to 28 U.S.C. 1391(b)(2), because the acts  
17 and omissions of Defendants complained of herein occurred in Fremont, California.

18 **FACTUAL ALLEGATIONS**

19 **DEMETRIC DI-AZ**

20 19. In approximately August of 2015, Demetric's father, Owen, informed him that  
21 West Valley had openings for positions at the Tesla Factory in Fremont, California.

22 20. Demetric was excited at the prospect of working at the Tesla Factory so he  
23 applied for a position with West Valley. His application was accepted, and he signed a contract  
24 and began his training on August 24, 2015.

25 21. In approximately August 2015, Demetric began working at the Tesla Factory as a  
26 Production Associate. Demetric participated in the development and application of Tesla's  
27 manufacturing system for the battery of its electric sedan, the Model S.  
28

22. Demetric took pride in his work, and was excited to work on the creation of Tesla's innovative vehicles.

23. However, Demetric found it increasingly difficult to enjoy his job because of the daily racist epithets that he had to endure throughout his shift. Demetric was called "nigger" on a regular basis, and observed other African-American employees enduring the same treatment. Additionally, Demetric's father, Owen, told him about racist epithets directed at him and showed Demetric offensive drawings he came across at the Tesla Factory.

24. This treatment continued throughout Demetric's employment for West Valley and Tesla. For example, when Owen came to Demetric's department to bring him lunch, Demetric's shift lead said, "All you fucking niggers - I can't stand you motherfuckers."

25. Demetric found this treatment demeaning and unbearably offensive.

26. Demetric complained to West Valley about the racist abuse he endured at work on a daily basis. West Valley took no action.

27. Upset and offended, Demetric complained to his supervisor at Tesla in October of 2015. He stated, "The way you're treating me - calling me an 'n-word' every day - that's not right." His supervisor replied, "If you don't like how you're treated, your time here is going to end." "So," Demetric asked, "you're going to fire me?" His supervisor replied, "You're a temp, anyway."

28. After Demetric complained, the racist abuse dramatically increased in frequency.

29. Within days of making his complaint, Demetric was issued a written warning based on accusations of misconduct. He was accused of using his phone on the production line. Prior to this written warning, Demetric had a good performance record.

30. Within just one week of his complaint to his supervisor at the Tesla Factory, he was terminated for "breaking the rules." Other employees with similar warning were not terminated.

31. Demetric believed the written warning and subsequent termination were pretextual. Demetric believed that his employment was terminated because he objected to the racist harassment and discrimination.

32. As a direct and proximate result of the acts and omissions of the Defendants, Demetric has suffered, and continues to suffer emotional distress and psychological damage. This includes, but is not limited to: humiliation, mental anguish, stress, fear, depression, and anxiety.

33. Defendants' actions have also resulted in wage and benefit losses, and are expected to lead to additional economic loss in the future.

34. As a result of the Defendants' actions, Demetric hired private counsel to prosecute this action. Pursuant to California Civil Codes Sections 52.1, 51.7, and 52(b)(3), and Title 42 USC section 1988, Demetric is entitled to recover attorney's fees associated with the prosecution of these claims.

35. Defendants' acts were malicious or oppressive, and intended to vex, injure, annoy, humiliate, and embarrass Demetric, and with conscious disregard of the rights and safety of Demetric and other African-American employees of West Valley. Demetric is informed and believes, and based thereon alleges, that West Valley and Tesla's managing agents ratified the wrongful conduct of Tesla's employees, because they were aware of the discriminatory conduct, and failed to take immediate remedial action after Demetric's report of the oppressive conduct.

#### **OWEN DIAZ**

36. Owen was elated when he discovered, in the summer of 2015, that he would be working at Tesla as an Elevator Operator through Citistaff and nextSource.

37. In his early days at the Tesla Factory, Owen was excited to go to work every morning. He was a good and hardworking employee, and his performance caught his supervisors' attention. Within the first month of the start of his employment at the factory, an Asian-American supervisor promoted him to an elevator lead position.

38. The supervisor warned him, however, that Tesla wouldn't want "someone like him" to be a lead. Owen believed his supervisor was stating that Tesla would not want an African-American man as a lead.

39. Owen's opinion of Tesla quickly soured, as his supervisor's prediction proved true. After beginning his employment at the Tesla Factory, Owen became the subject of vitriolic

1 racial harassment. Tesla Factory employees directed racial epithets, such as “nigger,” at him and  
2 other African-American Tesla employees on a daily basis.

3 40. Other employees in the factory also instructed Owen, “Go back to Africa,”  
4 implying that, as an African-American man, Owen did not belong in the United States.

5 41. When Owen was operating the elevator with Conveyance Supervisor Robert (last  
6 name unknown), Robert instructed Owen to press the elevator by saying, “Nigger, hurry up,  
7 press the button.”

8 42. Robert regularly referred to Owen as “nigger,” and also frequently called him  
9 “boy” in a demeaning tone.

10 43. To Owen, these degrading modes of address were reminiscent of the way slave  
11 owners referred to their slaves. He found this racist behavior to be unbearable.

12 44. Owen also witnessed racial slurs being used towards other African-American  
13 employees. His son, Demetric, worked in another department of the Tesla Factory. When Owen  
14 brought Demetric lunch one day, he overheard Demetric’s supervisor referring to the African-  
15 American workers at the factory as “fucking niggers.”

16 45. Owen felt demeaned and offended when Tesla’s employees referred to him as a  
17 “nigger.” The constant use of this offensive language made him depressed. However, what truly  
18 broke Owen down was witnessing these racist epithets directed at his son, and hearing his son  
19 tell him about the racism he was experiencing at work.

20 46. Owen complained verbally to Citistaff, but Citistaff took no action. Owen also  
21 complained to employees of Tesla and nextSource. However, no action was taken by any of the  
22 entities.

23 47. Tesla’s employees also drew racist and derogatory caricatures of African children  
24 that resembled the “pickaninny” imagery of the early twentieth century. These drawings  
25 typically featured images of dark-skinned individuals with big lips and bones in their hair.  
26 Features which are erroneously, and stereotypically, associated with African-American  
27 individuals. An example of such racially offensive conduct is attached as Exhibit A.  
28



1           48. To ensure there was no doubt about the racist intent behind this appalling  
2 imagery, the drawings were typically accompanied with captions such as, “Booo!” - suggesting  
3 that African-American individuals are undesirable and unpleasant.

4           49. These drawings were regularly placed around the factory, in locations where  
5 African-American employees, including Owen, were certain to view them.

6           50. Constantly viewing this racially offensive and demeaning imagery, coupled with  
7 the offensive message, caused Owen to feel demeaned, disrespected, and devalued.

8           51. Owen discovered that the elevator supervisor, Ramon, was the source of the  
9 drawings. Owen confronted Ramon and explained that he found the drawings offensive and  
10 demeaning. Owen requested that Ramon stop his behavior.

11           52. Ramon responded flippantly, “We’re just playing, why do you people take things  
12 so hard?” By “you people,” Ramon meant African-American employees.

13           53. Ramon refused to stop the offensive behavior.

14           54. Owen was distressed that Ramon would make the assumption that his rightful  
15 anger over this racist act was merely oversensitivity.

16           55. Tesla supervisor Michael Wheeler was aware of the harassment and offensive  
17 drawings made by Ramon around the factory, and so was Owen’s supervisor Ed Romero  
18 (hereinafter “Romero”). Because Owen was hired by Citistaff and nextSource, and not Tesla, he  
19 was informed he could not complain to Tesla’s Human Resources department. In frustration, he  
20 sent a written complaint to Romero, his supervisor at Tesla.

21           56. Romero stated that he would look in to the issue, but took no action. The  
22 harassing Tesla employees remained employed, and Owen was forced to continue to endure their  
23 harassment.

24           57. Owen also complained to Citistaff, but Citistaff likewise took no action.  
25 nextSource similarly failed to take sufficient action to timely address Owen’s complaints.

26           58. On approximately October 17, 2015, Owen was training another Citistaff  
27 employee, Rothai. He was in the middle of explaining to Rothai that Romero would be his  
28 supervisor when the elevator doors opened to reveal Ramon.

59. Ramon flew into a rage upon overhearing their conversation, and shouted, “Do you have a problem with me?! Why are you telling him who his supervisor is?!” Owen and Rothai had not been speaking about Ramon at all.

60. Fearful, Owen did not respond. Ramon followed him into the elevator, and came within inches of Owen’s body, preventing him from escaping. Ramon continued to shout and gesture aggressively.

61. Based on Ramon’s threatening words and conduct, and previous racist and generally hostile conduct, Owen feared that Ramon would hit him or otherwise harm him.

62. Ramon was an able-bodied male who worked as a laborer, so Owen reasonably believed that Ramon had the ability to physically harm him.

63. Owen asked Ramon to step back, and reminded Ramon that a security camera was recording the exchange. Eventually, Ramon exited the elevator.

64. Following this exchange, Owen contacted Romero via email. He wrote, “...because of the way Ramon was acting I don’t feel safe around him now. Can you please talk to him[?] I don’t need any problems. I just want to do my job.”

65. Romero responded by writing, “Owen, I will speak to Ramon and follow up by speaking to you.” Romero never again contacted Owen regarding the incident. Ramon continued to work with Owen, and Owen was not aware of any disciplinary measures taken against Ramon.

66. Owen contacted Citistaff regarding this incident, Citistaff still took no action.

67. The harassment and discrimination Owen experienced escalated after he made this complaint. Tesla’s employees used racial slurs with greater frequency.

68. Although Tesla, nextSource, and Citistaff had notice of the discriminatory and harassing behavior at the Tesla Factory, Tesla, nextSource, and Citistaff took no steps to protect African-American employees.

69. In fact, Tesla, nextSource, and Citistaff ratified and supported the racially harassing behavior. In the spring of 2016, Citistaff informed Owen that he would be demoted from his supervisory position, because he was causing too much trouble, despite the fact that he had no negative performance reviews or disciplinary issues.

71. Eventually, in approximately May of 2016, Owen quit his employment. Owen could no longer bear the abusive, racially harassing treatment he encountered daily at work. Since Citistaff, nextSource, and Tesla had repeatedly refused to investigate the racist behavior and instead ratified the attempts at retaliation by threatening Owen with a demotion, he worried that the situation would only degenerate further.

72. As a direct and proximate result of the acts and omissions of the Defendants, Owen has suffered, and continues to suffer emotional distress and psychological damage. This includes, but is not limited to: humiliation, mental anguish, stress, fear, depression, and anxiety.

73. Defendants' actions have also resulted in past wage and benefit loss, and are expected to lead to additional economic loss in the future.

74. As a result of the Defendants' actions, Owen hired private counsel to prosecute this action. Pursuant to California Civil Codes Sections 52.1, 51.7, and 52(b)(3), and Title 42 USC Section 1988, Owen is entitled to recover attorney's fees associated with the prosecution of these claims.

75. Defendants' acts were malicious or oppressive, and intended to vex, injure, annoy, humiliate, and embarrass Owen, and with conscious disregard of the rights and safety of Owen and other African-American employees of Defendants. Owen is informed and believes, and based thereon alleges, that managing agents ratified the wrongful conduct of the Defendants' employees, because they were aware of this conduct and failed to take immediate remedial action, and retained the errant employees after Owen's report of the oppressive conduct.

**LAMAR PATTERSON**

76. Lamar was excited to join Tesla as an Elevator Operator when he was hired in approximately January 2016. He worked hard and hoped to embark on a long-term career path at the company that he so much admired.

1           77. It did not take long for Lamar to learn that the company was a hotbed for racist  
2 behavior. Both employees and supervisors used the word “nigger” freely and frequently  
3 throughout the Tesla Factory, left racist caricatures, images, and effigies around the factory for  
4 African-American employees to see, and made “jokes” such as, “Go back to Africa. We don’t  
5 want you here!”

6           78. Lamar complained to Supervisor Ed Romero about the use of the word “nigger”  
7 and the hurtful “jokes.” However, neither Romero nor anyone else at Tesla took action to address  
8 the issue; he continued to hear the racist epithets on a regular basis, throughout his workday.

9           79. Unable to bear the abusive and racially harassing treatment he encountered daily  
10 at work any longer, Lamar quit his employment with Defendants Tesla and Chartwell in  
11 approximately August of 2016.

12           80. As a direct and proximate result of the acts and omissions of the Defendants,  
13 Lamar has suffered, and continues to suffer emotional distress and psychological damage. This  
14 includes, but is not limited to: depression and anxiety.

15           81. Defendants’ actions have also resulted in past wage and benefit loss, and are  
16 expected to lead to additional economic loss in the future.

17           82. As a result of the Defendants’ actions, Lamar hired private counsel to prosecute  
18 this action. Pursuant to California Government Code section 12965(b), California Civil Codes  
19 Sections 52.1, 51.7, and 52(b)(3), and Title 42 USC Section 1988, Owen is entitled to recover  
20 attorney’s fees associated with the prosecution of these claims.

21           83. Defendants’ acts were malicious or oppressive, and intended to vex, injure,  
22 annoy, humiliate, and embarrass Lamar, and with conscious disregard of the rights and safety of  
23 Lamar and other African-American employees of Defendants. Lamar is informed and believes,  
24 and based thereon alleges, that managing agents ratified the wrongful conduct of the Defendants’  
25 employees, because they were aware of this conduct and failed to take immediate remedial  
26 action, and retained the errant employees after Lamar’s report of the oppressive conduct.

27           84. On or about July 31, 2017, Lamar filed a timely charge against Defendants Tesla  
28 and Chartwell with the Department of Fair Employment and Housing alleging discrimination,

harassment and retaliation on the basis of race and color; failure to prevent harassment, discrimination and retaliation; and constructive termination. The DFEH issued a right-to-sue letter regarding this charge on July 31, 2017.

**FIRST CAUSE OF ACTION**

RACIAL DISCRIMINATION, RACIAL HARASSMENT (HOSTILE WORK ENVIRONMENT), RETALIATION, FAILURE TO INVESTIGATE AND PREVENT DISCRIMINATION AND HARASSMENT, WRONGFUL TERMINATION, CONSTRUCTIVE DISCHARGE

42 U.S.C. § 1981

(As to All Plaintiffs; Against All Defendants)

85. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully reproduced herein.

86. As African-American men, Plaintiffs are members of a protected class. At all relevant times herein, Demetric was in a contractual relationship with defendant West Valley within the meaning of 42 U.S.C. § 1981, as amended. At all relevant times herein, Owen was in a contractual relationship with defendants Citistaff, nextSource, and Tesla within the meaning of 42 U.S.C. § 1981, as amended. At all relevant times herein, Lamar was in a contractual relationship with defendants Chartwell and Tesla within the meaning of 42 U.S.C. § 1981, as amended.

87. During the course of Demetric, Owen and Lamar's employment, defendants Tesla, West Valley, Citistaff, nextSource, and Chartwell violated Plaintiffs' rights by depriving Plaintiffs of their right to the enjoyment of all benefits, privileges, terms, and conditions of Plaintiffs' employment contract "as is enjoyed by white citizens," in direct violation of 42 U.S.C. § 1981(b).

88. Specifically, Tesla's employees and supervisors subjected Plaintiffs and others to racial harassment, racial discrimination, and a racially hostile work environment, culminating in an end to their employment relationship with Tesla. Tesla, West Valley, Citistaff, nextSource, and Chartwell failed to investigate and prevent incidents of racial harassment, despite numerous reports and complaints, thereby evidencing a pattern and practice of racial discrimination and harassment. All five defendants retaliated against Plaintiffs for complaining of a hostile work

1 environment by issuing Demetric a written warning based on false allegations, approving the  
2 retaliatory termination of Demetric, and making the work environment so unbearable that Owen  
3 and Lamar had no choice but to quit their employment.

4 89. Tesla acted intentionally to discriminate against Plaintiffs. Tesla's supervisory  
5 employees and agents used racial epithets and racist imagery to harass and intimidate Plaintiffs  
6 and others, and ignored Plaintiffs' repeated reports regarding this harassment and discrimination.

7 90. Defendants failed to prevent the racially harassing and retaliatory behavior  
8 directed at Plaintiffs and others. Ultimately, Plaintiff Demetric was wrongfully terminated, and  
9 Plaintiffs Owen and Lamar were constructively terminated.

10 91. Through their actions and treatment of Plaintiffs, Defendants and their agents  
11 intended to discriminate against Plaintiffs on the basis of their race.

12 92. Defendants' violations of the Civil Rights Act of 1866, as amended, caused  
13 Plaintiffs to suffer harm as set forth above.

14 93. As a result of Defendants' unlawful acts, Plaintiffs are entitled to damages as set  
15 forth herein.

16 94. By reason of the conduct of Defendants as alleged herein, Plaintiffs have  
17 necessarily retained attorneys to prosecute the present action. Plaintiffs are therefore entitled to  
18 reasonable attorney's fees and litigation expenses, including expert witness fees and costs,  
19 incurred in bringing this action.

20 95. Defendants engaged in the acts alleged herein maliciously, fraudulently, and  
21 oppressively; with the wrongful intention of injuring Plaintiffs; with the conscious disregard of  
22 the rights and safety of Plaintiffs; and with an improper and evil motive amounting to malice.  
23 Plaintiffs are thus entitled to recover punitive damages from Defendants in an amount according  
24 to proof.

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**SECOND CAUSE OF ACTION**

**RACIAL DISCRIMINATION IN VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

Cal. Civ. Code § 51

(As to All Plaintiffs; Against Defendant Tesla)

96. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully reproduced herein.

97. Plaintiffs are African-American men, and residents of California.

98. Defendant Tesla's Factory in Fremont is a business establishment for the purposes of the Unruh Civil Rights Act. A business establishment is a facility which is offered "to qualified [workers], who are not the establishment's employees, in exchange for... considerations." *Payne v. Anaheim Memorial Medical Center, Inc.*, 130 Cal. App. 4th 729, 733 (2005) (review denied). Defendant Tesla operates its Fremont Factory as a business establishment, offering the use of its facilities to qualified contractors, who are not its employees, in exchange for payment.

99. Tesla acted intentionally to discriminate in its business establishment against Plaintiffs. Tesla's supervisory employees and agents used racial epithets and racist imagery to harass and intimidate Plaintiffs, ignored Plaintiffs' repeated reports regarding this harassment and discrimination, and prevented Plaintiffs from accessing its facilities in retaliation for Plaintiffs' complaints of discrimination and harassment.

100. Defendants' violations of the Unruh Civil Rights Act caused Plaintiffs to suffer harm as set forth above.

101. As a result of Defendants' unlawful acts, Plaintiffs are entitled to recover statutory damages of a maximum of three times the amount of actual damages, or a minimum of \$4,000.

102. By reason of the conduct of Defendants as alleged herein, Plaintiffs have necessarily retained attorneys to prosecute the present action. Plaintiffs are therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing this action.

103. Defendants engaged in the acts alleged herein maliciously, fraudulently, and oppressively; with the wrongful intention of injuring Plaintiffs; with the conscious disregard of the rights and safety of Plaintiffs; and with an improper and evil motive amounting to malice. Plaintiffs are thus entitled to recover punitive damages from Defendants in an amount according to proof.

### **THIRD CAUSE OF ACTION**

#### **RETALIATION IN VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

Cal. Civ. Code § 51

(As to Plaintiffs' Demetric and Owen; Against Defendant Tesla)

104. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully reproduced herein.

105. The Unruh Act prohibits retaliation against persons who complain about conduct they reasonably believe to violate the Act. *See, e.g., Vaughn v. Hugo Neu Proler Int'l* (1990) 223 Cal.App.3d 1612, 1619.

106. Plaintiffs reasonably believed the race harassment they experienced at Tesla's Fremont factory to be a violation of their rights under California law.

107. Plaintiffs complained against the harassment, and Defendants retaliated against Plaintiffs for reporting the harassment by issuing Demetric a write up and subsequently terminating his employment, and by threatening Owen with a demotion. Defendants further retaliated against Plaintiffs by subjecting them to further harassment.

108. Defendants' violations of the Unruh Civil Rights Act caused Plaintiffs to suffer harm as set forth above.

109. As a result of Defendants' unlawful acts, Plaintiffs are entitled to recover statutory damages of a maximum of three times the amount of actual damages, or a minimum of \$4,000.

110. By reason of the conduct of Defendants as alleged herein, Plaintiffs have necessarily retained attorneys to prosecute the present action. Plaintiffs are therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing this action.



111. Defendants engaged in the acts alleged herein maliciously, fraudulently, and oppressively; with the wrongful intention of injuring Plaintiffs; with the conscious disregard of the rights and safety of Plaintiffs; and with an improper and evil motive amounting to malice. Plaintiffs are thus entitled to recover punitive damages from Defendants in an amount according to proof.

**FOURTH CAUSE OF ACTION**

**THREATS OF VIOLENCE IN VIOLATION OF THE RALPH CIVIL RIGHTS ACT  
Cal. Civ. Code § 51.7**

(As to Owen; Against Defendants Citistaff, nextSource, and Tesla)

112. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully reproduced herein.

113. Plaintiff Owen is an African-American man who worked at Tesla's Fremont Factory while employed by Citistaff and nextSource.

114. While working at the factory, Owen was subjected to threats of violence by a Tesla employee, Ramon. Without any provocation, Ramon screamed at and physically intimidated Owen. Based on this and Ramon's previous hostile behavior, Owen believed that Ramon intended to hit him.

115. In addition to his use of threatening language, Ramon, rushed into the elevator with Owen. He moved so that he was merely inches from Owen's body, preventing Owen from leaving the elevator. Ramon then continued to scream at Owen and berated and belittled him.

116. Ramon's demeanor and conduct was threatening, such that Owen believed he was in imminent physical danger. Ramon was an able-bodied male with the apparent ability to cause Owen physical harm.

117. Based on Ramon's history of racially discriminatory and demeaning acts, Owen believed that Ramon's behavior was motivated by his hatred of and prejudice towards African-Americans.

118. Owen reported Ramon's actions to Tesla. However, Tesla took no action, and implicitly ratified Ramon's abuse by failing to investigate his actions, and allowing Ramon to continue to abuse and harass Owen.

1 119. Tesla further ratified Ramon's actions by retaliating against Owen and suggesting  
2 that Owen be demoted as punishment for reporting Ramon's racially abusive behavior.

3 120. Because Tesla ratified Ramon's actions, Tesla is liable for his abuse under the  
4 doctrine of *respondeat superior*.

5 121. Owen reported Ramon's actions to Citistaff and nextSource. However, Citistaff  
6 and nextSource took no action, and implicitly ratified Ramon's abusive behavior by failing to  
7 investigate his actions, and allowing Ramon to continue to abuse and harass Owen.

8 122. Because Citistaff and Nextsource ratified Ramon's actions, Citistaff and  
9 nextSource are liable for his abuse.

10 123. Defendants' violations of Section 51.7 of the California Civil Code caused  
11 Plaintiff Owen to suffer harm as set forth above.

12 124. As a result of Defendants' unlawful acts, Plaintiff is entitled to recover a civil  
13 penalty of \$25,000.

14 125. By reason of the conduct of Defendants as alleged herein, Plaintiffs have  
15 necessarily retained attorneys to prosecute the present action. Plaintiffs are therefore entitled to  
16 reasonable attorney's fees and litigation expenses, including expert witness fees and costs,  
17 incurred in bringing this action.

18 126. Defendants engaged in the acts alleged herein maliciously, fraudulently, and  
19 oppressively; with the wrongful intention of injuring Plaintiffs; with the conscious disregard of  
20 the rights and safety of Plaintiffs; and with an improper and evil motive amounting to malice.  
21 Plaintiffs are thus entitled to recover punitive damages from Defendants in an amount according  
22 to proof.

23 **FIFTH CAUSE OF ACTION**

24 **THREATS OF VIOLENCE IN VIOLATION OF THE BANE ACT**

25 **Cal. Civ. Code § 52.1(a)**

26 **(As to Plaintiff Owen; Against Defendants Citistaff, nextSource, and Tesla)**

27 127. Plaintiff incorporates the foregoing paragraphs by reference, as though fully  
28 reproduced herein.

1           128. Plaintiff Owen is an African-American man who worked at Tesla's Fremont  
2 Factory while employed by Citistaff and nextSource.

3           129. While working at the factory, Owen was subjected to threats of violence by a  
4 Tesla employee, Ramon. Without any provocation, Ramon screamed at and physically  
5 intimidated Owen. Based on this and Ramon's previous hostile behavior, Owen believed that  
6 Ramon intended to hit him.

7           130. In addition to his use of threatening language, Ramon, rushed into the elevator  
8 with Owen. He moved so that he was merely inches from Owen's body, preventing Owen from  
9 leaving the elevator. Ramon then continued to scream at Owen and berated and belittled him.

10           131. Ramon's demeanor and conduct was threatening, such that Owen believed he was  
11 in imminent physical danger. Ramon was an able-bodied male with the apparent ability to cause  
12 Owen physical harm.

13           132. Based on Ramon's history of racially discriminatory and demeaning acts, Owen  
14 believed that Ramon's behavior was motivated by his hatred of and prejudice towards African-  
15 Americans.

16           133. Owen reported Ramon's actions to Tesla. However, Tesla took no action, and  
17 implicitly ratified Ramon's abuse by failing to investigate his actions, and allowing Ramon to  
18 continue to abuse and harass Owen.

19           134. Tesla further ratified Ramon's actions by retaliating against Owen and threatening  
20 demoting him as punishment for reporting Ramon's racially abusive behavior.

21           135. Because Tesla ratified Ramon's actions, Tesla is liable for his abuse under the  
22 doctrine of *respondeat superior*.

23           136. Owen reported Ramon's actions to Citistaff and nextSource. However, Citistaff  
24 and nextSource took no action, and implicitly ratified Ramon's abusive behavior by failing to  
25 investigate his actions, and allowing Ramon to continue to abuse and harass Owen.

26           137. Because Citistaff and nextSource ratified Ramon's actions, Citistaff and  
27 nextSource are liable for his abuse under the doctrine of *respondeat superior*.  
28

1 138. Defendants' violations of Section 52.1 of the California Civil Code caused  
2 Plaintiffs to suffer harm as set forth above.

3 139. As a result of Defendants' unlawful acts, Plaintiff Owen is entitled to recover civil  
4 penalties of \$25,000.

5 140. By reason of the conduct of Defendants as alleged herein, Plaintiffs have  
6 necessarily retained attorneys to prosecute the present action. Plaintiffs are therefore entitled to  
7 reasonable attorney's fees and litigation expenses, including expert witness fees and costs,  
8 incurred in bringing this action.

9 141. Defendants engaged in the acts alleged herein maliciously, fraudulently, and  
10 oppressively; with the wrongful intention of injuring Plaintiffs; with the conscious disregard of  
11 the rights and safety of Plaintiffs; and with an improper and evil motive amounting to malice.  
12 Plaintiffs are thus entitled to recover punitive damages from Defendants in an amount according  
13 to proof.

14 **SIXTH CAUSE OF ACTION**

15 INTERFERENCE WITH CONSTITUTIONAL RIGHTS IN VIOLATION OF BANE ACT  
16 Cal. Civ. Code § 52.1(b)  
(As to All Plaintiffs; Against All Defendants)

17 142. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully  
18 reproduced herein.

19 143. Defendants interfered with Plaintiffs' constitutional right entitling them to equal  
20 protection.

21 144. Defendants adopted the conduct, through their officers, directors, managing  
22 agents, or supervisory employees. They further ratified the conduct by failing to take appropriate  
23 prompt remedial action.

24 145. A substantial motivating reason for Defendants' conduct was Plaintiffs' race.

25 146. Defendants interfered with Plaintiffs' right to be free from discrimination on the  
26 basis of race as set forth above, and permitted working conditions that denied Plaintiffs their  
27 constitutional right entitling them to equal protection.  
28

1 147. Defendants' conduct caused Plaintiffs to suffer, and continue to suffer damages as  
2 set forth above.

3 148. By reason of the conduct of Defendants as alleged herein, Plaintiffs have  
4 necessarily retained attorneys to prosecute the present action. Plaintiffs are therefore entitled to  
5 reasonable attorney's fees and litigation expenses, including expert witness fees and costs,  
6 incurred in bringing this action.

7 149. Defendants engaged in the acts alleged herein maliciously, fraudulently, and  
8 oppressively; with the wrongful intention of injuring Plaintiffs; with the conscious disregard of  
9 the rights and safety of Plaintiffs; and with an improper and evil motive amounting to malice.  
10 Plaintiffs are thus entitled to recover punitive damages from Defendants in an amount according  
11 to proof.

12 **SEVENTH CAUSE OF ACTION**  
13 **WHISTLEBLOWER RETALIATION**  
14 (Cal. Labor Code 1102.5)

15 (As to Plaintiffs Demetric and Owen; Against All Defendants)

16 150. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully  
17 reproduced herein.

18 151. At all relevant times mentioned herein, Plaintiffs were African-American  
19 residents of California.

20 152. At all relevant times mentioned herein, Demetric was an employee of defendant  
21 West Valley and Tesla.

22 153. Demetric engaged in protected activity when he reported the racially harassing  
23 and discriminatory behavior to West Valley and Tesla, including the threat to terminate his  
24 employment for his refusal to endure the daily racial harassment.

25 154. Demetric had a reasonable, good-faith belief that this behavior was a violation of  
26 the federal Civil Rights Act of 1964, and other state and federal statutes.

27 155. West Valley and Tesla took adverse employment action against Demetric.  
28 Without justification or basis in fact, both entities accepted as true the assertions of Demetric's  
harassers that he was a poor performer; they then terminated Demetric's employment on that

1 false basis. West Valley and Tesla did this even though they knew that Demetric's supervisor  
2 responded to his complaint of harassment by threatening to terminate Demetric's employment.

3 156. In terminating Demetric, West Valley and Tesla ratified the discriminatory  
4 behavior.

5 157. At all relevant times mentioned herein, Owen was an employee of defendants  
6 Citistaff, nextSource, and Tesla.

7 158. Owen engaged in protected activity when he reported the racially harassing and  
8 discriminatory behavior to Citistaff, nextSource, and Tesla.

9 159. Owen had a reasonable, good-faith belief that this behavior was a violation of the  
10 federal Civil Rights Act of 1964, and other state and federal statutes.

11 160. Citistaff, nextSource, and Tesla took adverse employment action against Owen by  
12 threatening him with a demotion. However, Owen had a positive performance history, and Tesla  
13 only threatened Owen with a demotion as punishment for complaining of the racist harassment.

14 161. In accepting as true the proffered reasons for threatening Owen with a demotion,  
15 even though Owen had complained to Citistaff, nextSource, and Tesla of the discriminatory  
16 behavior of Tesla's employees on numerous occasions, Citistaff, nextSource, and Tesla ratified  
17 and continued the discriminatory behavior.

18 162. Defendants' violations of Section 1102.5 of the California Labor Code caused  
19 Plaintiffs to suffer harm as set forth above.

20 163. As a result of Defendants' unlawful acts, Plaintiffs are entitled to recover civil  
21 penalties of \$10,000 for each violation.

22 164. By reason of the conduct of Defendants as alleged herein, Plaintiffs have  
23 necessarily retained attorneys to prosecute the present action. Plaintiffs are therefore entitled to  
24 reasonable attorney's fees and litigation expenses, including expert witness fees and costs,  
25 incurred in bringing this action.

26 165. Defendants engaged in the acts alleged herein maliciously, fraudulently, and  
27 oppressively; with the wrongful intention of injuring Plaintiffs; with the conscious disregard of  
28 the rights and safety of Plaintiffs; and with an improper and evil motive amounting to malice.

1 Plaintiffs are thus entitled to recover punitive damages from Defendants in an amount according  
2 to proof.

3 **EIGHTH CAUSE OF ACTION**

4 **RACIAL HARASSMENT**

5 Cal. Govt. Code § 12940, *et seq.*

6 (As to Plaintiff Lamar; Against Defendants Tesla and Chartwell)

7 166. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully  
8 reproduced herein.

9 167. Plaintiff Lamar at all times was an employee covered by the Fair Employment  
10 and Housing Act (“FEHA”), California Government Code §§ 12940(a) and (j), which prohibits  
11 an employer from discriminating and harassing an employee on the basis of color and race.

12 168. Defendants Tesla and Chartwell were, at all times, employers as defined under the  
13 FEHA.

14 169. The above-described actions constitute racial harassment and discrimination in  
15 violation of the FEHA. Plaintiff Lamar was subjected to working in a severe, persistent and/or  
16 pervasive racially hostile work environment, which interfered with his work performance, denied  
17 him employment privileges, and adversely affected the terms and conditions of his job on the  
18 basis of his race.

19 170. The harassing conduct to which Plaintiff Lamar was subjected to was so severe,  
20 widespread, and/or persistent that a reasonable African American in Plaintiff Lamar’s  
21 circumstances would have considered the work environment to be hostile and/or abusive.

22 171. Plaintiff Lamar considered the work environment to be hostile and/or abusive.

23 172. Defendants Tesla and Chartwell failed to take prompt, remedial and effective  
24 action to stop the harassers.

25 173. Defendants’ violations of the FEHA caused Plaintiff Lamar to suffer harm as set  
26 forth above.

27 174. By reason of the conduct of Defendants as alleged herein, Plaintiff Lamar has  
28 necessarily retained attorneys to prosecute the within action. Plaintiff Lamar is therefore entitled

1 to reasonable attorney's fees and litigation expenses, including expert witness fees and costs,  
2 incurred in bringing the within action.

3 175. Defendants did the acts alleged herein maliciously, fraudulently, and  
4 oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious  
5 disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting  
6 to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount  
7 according to proof.

8 **NINTH CAUSE OF ACTION**

9 **RACE DISCRIMINATION**

10 Cal. Govt. Code § 12940, *et seq.*

(As to Plaintiff Lamar; Against Defendants Tesla and Chartwell)

11 176. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully  
12 reproduced herein.

13 177. Plaintiff Lamar at all times was an employee covered by the FEHA, California  
14 Government Code §§ 12940(a) and (j), which prohibits an employer from discriminating against  
15 an employee on the basis of color and race.

16 178. Defendants Tesla and Chartwell were at all times employers as defined under the  
17 FEHA.

18 179. Tesla failed to take any action in response to Plaintiff's complaints because of his  
19 color and race.

20 180. Defendants' practice of failing to take any action in response to Plaintiff's  
21 complaints was a substantial factor in causing Plaintiff's harm.

22 181. Defendants' violations of the FEHA caused Plaintiff to suffer harm as set forth  
23 above.

24 \\\

25 182. By reason of the conduct of Defendants as alleged herein, Plaintiff Lamar has  
26 necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to  
27 reasonable attorney's fees and litigation expenses, including expert witness fees and costs,  
28 incurred in bringing the within action.



1 183. Defendants did the acts alleged herein maliciously, fraudulently, and  
2 oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious  
3 disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting  
4 to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount  
5 according to proof.

6 **TENTH CAUSE OF ACTION**

7 **RETALIATION**

8 Cal. Govt. Code 12940(h)

9 (As to Plaintiff Lamar; Against Defendants Tesla and Chartwell)

10 184. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully  
11 reproduced herein.

12 185. Plaintiff Lamar complained of harassment and discrimination that violated the  
13 FEHA.

14 186. Defendants Tesla and Chartwell took no action to ensure that Plaintiff was not  
15 retaliated against or threatened for having complained.

16 187. As a result of Defendants Tesla and Chartwell's action or inaction, Plaintiff was  
17 subject to additional harassment, making the work environment so unbearable that Plaintiff  
18 Lamar had no choice but to quit his employment.

19 188. Defendants' violations of the FEHA caused Plaintiff to suffer harm as set forth  
20 above.

21 189. By reason of the conduct of Defendants as alleged herein, Plaintiff has necessarily  
22 retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable  
23 attorney's fees and litigation expenses, including expert witness fees and costs, incurred in  
24 bringing the within action.

25 190. Defendants did the acts alleged herein maliciously, fraudulently, and  
26 oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious  
27 disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting  
28 to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount  
according to proof.

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**ELEVENTH CAUSE OF ACTION**

**FAILURE TO PREVENT DISCRIMINATION AND HARASSMENT**

Cal. Govt. Code § 12940, *et seq.*

(As to Plaintiff Lamar; Against Defendants Tesla and Chartwell)

191. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully reproduced herein.

192. Defendants Tesla and Chartwell failed to take all reasonable steps to prevent the harassment and discrimination as described above. Defendants knew or should have known that Tesla's employees were engaged in racially offensive behavior in the past and failed to stop it.

193. Despite being on notice of Tesla's employees' propensity to engage in harassing conduct, Defendants failed to act to prevent employees from harassing Plaintiff.

194. Defendants also failed to enact an anti-discrimination policy and/or failed to distribute it appropriately and failed to effectively train its employees on racial harassment or discrimination.

195. As a result of Defendants violations of the FEHA, Plaintiff suffered harm as set forth above.

196. By reason of the conduct of Defendants as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

197. Defendants did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendants in an amount according to proof.

**TWELFTH CAUSE OF ACTION**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

(As to All Plaintiffs; Against All Defendants)

198. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully reproduced herein.

1       199. As employees and contractors of Defendants, Plaintiffs were owed a duty of due  
2 care by Defendants, and each of them, to ensure that Plaintiffs were not exposed to foreseeable  
3 harms.

4       200. Defendants, and each of them, knew, or should have known, that Plaintiffs were  
5 being subjected to racial harassment, discrimination and retaliation, and that, by failing to  
6 exercise due care to prevent racially harassing, discriminatory and retaliatory course of conduct  
7 could and would cause Plaintiffs to suffer serious emotional distress.

8       201. Defendants, and each of them, failed to exercise their duty of due care to prevent  
9 their employees, managers, supervisors and/or officers from racially harassing, discriminating  
10 and retaliating against Plaintiffs.

11       202. As a direct and consequential result of Defendants' actions, Plaintiffs suffered  
12 serious mental and emotional distress, includes, but is not limited to, pain, anxiety, humiliation,  
13 anger, shame, embarrassment, frustration, and fear. Plaintiffs allege Defendants are responsible  
14 for the harm they suffered.

15       203. By reason of the conduct of Defendants as alleged herein, Plaintiffs have  
16 necessarily retained attorneys to prosecute the present action. Plaintiffs are therefore entitled to  
17 reasonable attorney's fees and litigation expenses, including expert witness fees and costs,  
18 incurred in bringing this action.

19       204. Defendants engaged in the acts alleged herein maliciously, fraudulently, and  
20 oppressively; with the wrongful intention of injuring Plaintiffs; with the conscious disregard of  
21 the rights and safety of Plaintiffs; and with an improper and evil motive amounting to malice.  
22 Plaintiffs are thus entitled to recover punitive damages from Defendants in an amount according  
23 to proof.

24                   **THIRTEENTH CAUSE OF ACTION**

25                   **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

26                   **(As to All Plaintiffs; Against All Defendants)**

27       205. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully  
28 reproduced herein.

1           206. Plaintiffs complained repeatedly to Tesla as well as to West Valley, Chartwell,  
2 nextSource, and Citistaff about the constant racial abuse they received on a daily basis. Plaintiffs  
3 made clear that the racial harassment caused them distress, humiliation, and suffering.

4           207. When Defendants failed to take corrective action, Defendants knew that Plaintiffs  
5 would continue to suffer extreme emotional distress and harm as a result of their failure to act.

6           208. As a direct and consequential result of Defendants' actions, Plaintiffs have  
7 suffered severe emotional distress to their persons. Such harm includes, but is not limited to,  
8 pain, anxiety, humiliation, anger, shame, embarrassment, frustration, and fear. Plaintiffs allege  
9 Defendants are responsible for the harm they suffered.

10           209. By reason of the conduct of Defendants as alleged herein, Plaintiffs have  
11 necessarily retained attorneys to prosecute the present action. Plaintiffs are therefore entitled to  
12 reasonable attorney's fees and litigation expenses, including expert witness fees and costs,  
13 incurred in bringing this action.

14           210. Defendants engaged in the acts alleged herein maliciously, fraudulently, and  
15 oppressively; with the wrongful intention of injuring Plaintiffs; with the conscious disregard of  
16 the rights and safety of Plaintiffs; and with an improper and evil motive amounting to malice.  
17 Plaintiffs are thus entitled to recover punitive damages from Defendants in an amount according  
18 to proof.

19                           **FOURTEENTH CAUSE OF ACTION**

20                           NEGLIGENT HIRING, RETENTION AND SUPERVISION

21                           (As to All Plaintiffs; Against All Defendants)

22           211. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully  
23 reproduced herein.

24           212. Upon information and belief, Defendants, by and through its agents and  
25 employees, knew or reasonably should have known through reasonable investigation of some of  
26 its agents and/or employees' propensity for unlawful racially harassing and physically aggressive  
27 behavior.  
28

1           213. Defendants had a duty not to hire or retain these employees/agents given their  
2 wrongful, dangerous, and racially offensive propensities, and to provide reasonable supervision  
3 of these employees/agents.

4           214. Defendants negligently hired, retained and/or failed to adequately supervise these  
5 employees/agents in their positions where they were able to commit the wrongful acts  
6 complained of here against Plaintiffs. Defendants failed to provide reasonable supervision of  
7 these employees/agents despite knowing of their propensities and complaints made against them.

8           215. As a direct and consequential result of Defendants' actions, Plaintiffs have  
9 suffered serious emotional distress to their persons. Such harm includes, but is not limited to,  
10 pain, anxiety, humiliation, anger, shame, embarrassment, frustration, and fear. Plaintiffs allege  
11 Defendants are responsible for the harm they suffered.

12           216. By reason of the conduct of Defendants as alleged herein, Plaintiffs have  
13 necessarily retained attorneys to prosecute the present action. Plaintiffs are therefore entitled to  
14 reasonable attorney's fees and litigation expenses, including expert witness fees and costs,  
15 incurred in bringing this action.

16           217. Defendants engaged in the acts alleged herein maliciously, fraudulently, and  
17 oppressively; with the wrongful intention of injuring Plaintiffs; with the conscious disregard of  
18 the rights and safety of Plaintiffs; and with an improper and evil motive amounting to malice.  
19 Plaintiffs are thus entitled to recover punitive damages from Defendants in an amount according  
20 to proof.

21                           **FIFTEENTH CAUSE OF ACTION**

22                   **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**  
23                   **(As to Plaintiff Demetric; Against Defendant West Valley and Tesla)**

24           218. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully  
25 reproduced herein.

26           219. Defendant Tesla and West Valley punished Demetric by terminating his  
27 employment.

28           220. Although Defendants stated that Demetric should be terminated for performance  
issues, this was merely a pretext. Demetric did not have a history of written warnings or

1 performance issues warranting a termination until he was issued a written warning for using his  
2 phone on the production line within days of complaining to his supervisor of the racially  
3 discriminatory and harassing behavior he was subjected to at work. His supervisor responded to  
4 his complaint by threatening to terminate Demetric's employment, and ultimately did terminate  
5 his employment approximately a week after Demetric made his complaint.

6 221. West Valley ratified Tesla's discriminatory behavior by terminating Demetric  
7 without conducting any investigation into the veracity of the claims against him, thereby  
8 approving of Tesla's discriminatory motives.

9 222. West Valley and Tesla's decision to terminate Demetric's employment based on  
10 discriminatory motives was contrary to the policies, rules, regulations, and laws of the State of  
11 California, which are in substantial part designed to protect employees from discriminatory,  
12 harassing, and otherwise harmful or unlawful conduct. Said policies are encoded in Article 1,  
13 Section 8 of the Constitution of the State of California, and in Section 12900 *et seq.* of the  
14 California Government Code. Demetric's termination therefore constituted an unlawful  
15 termination under California law.

16 223. Defendants' violations of these constitutional and statutory provisions caused  
17 Plaintiff Demetric to suffer harm as set forth above.

18 224. By reason of the conduct of Defendants as alleged herein, Plaintiff Demetric has  
19 necessarily retained attorneys to prosecute the present action. Plaintiff Demetric is therefore  
20 entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and  
21 costs, incurred in bringing this action.

22 225. Defendants engaged in the acts alleged herein maliciously, fraudulently, and  
23 oppressively; with the wrongful intention of injuring Plaintiff Demetric; with the conscious  
24 disregard of the rights and safety of Plaintiff Demetric; and with an improper and evil motive  
25 amounting to malice. Plaintiff Demetric is thus entitled to recover punitive damages from  
26 Defendants in an amount according to proof.

27 //

28 //

**SIXTEENTH CAUSE OF ACTION**

**CONSTRUCTIVE DISCHARGE IN VIOLATION OF PUBLIC POLICY**  
(As to Plaintiff Owen and Lamar; Against Defendants Tesla, Citistaff, nextSource, and Chartwell)

226. Plaintiffs incorporate the foregoing paragraphs by reference, as though fully reproduced herein.

227. At all relevant times herein, Owen was an employee of Citistaff, nextSource, and Tesla; and Lamar was an employee of Chartwell and Tesla.

228. Citistaff, nextSource, and Tesla constructively terminated Owen's employment, and Chartwell and Tesla constructively terminated Lamar's employment by permitting a hostile work environment to flourish at the Tesla Factory, where Owen and Lamar were continuously subjected to harassment and discrimination.

229. Owen and Lamar complained about the use of racial slurs, the display of racially offensive images, and the use of offensive statements. Owen also complained in writing about the violent conduct Ramon directed towards him.

230. When Owen complained of this conduct, Tesla's employees only escalated their threatening and discriminatory behavior, and attempted to demote Owen.

231. No reasonable African-American person could have borne the constant harassment, discrimination, intimidation, and threatening behavior directed at Owen and Lamar on a daily basis.

232. As a result, when Defendants Tesla, Citistaff, nextSource, and Chartwell repeatedly declined to intervene and prevent the harassment, Owen and Lamar had no choice but to quit.

233. Defendants Tesla, Chartwell, nextSource, and Citistaff's failure to halt the racial harassment and discrimination was contrary to the policies, rules, regulations, and laws of the State of California, which are in substantial part designed to protect employees from discriminatory, harassing, and otherwise harmful or unlawful conduct. Said policies are encoded in Article 1, Section 8 of the Constitution of the State of California, and in Section 12900 *et seq.* of the California Government Code. Defendants Tesla, nextSource, and Citistaff's constructive

1 termination of Owen, and Defendants Tesla and Chartwell's constructive termination of Lamar  
2 therefore constituted a wrongful termination under California law.

3 234. Defendants' violations of these constitutional and statutory provisions caused  
4 Plaintiffs Owen and Lamar to suffer harm as set forth above.

5 235. By reason of the conduct of Defendants as alleged herein, Plaintiffs Owen and  
6 Lamar have necessarily retained attorneys to prosecute the present action. Plaintiffs Owen and  
7 Lamar are therefore entitled to reasonable attorney's fees and litigation expenses, including  
8 expert witness fees and costs, incurred in bringing this action.

9 236. Defendants engaged in the acts alleged herein maliciously, fraudulently, and  
10 oppressively; with the wrongful intention of injuring Plaintiffs Owen and Lamar; with the  
11 conscious disregard of the rights and safety of Plaintiffs; and with an improper and evil motive  
12 amounting to malice. Plaintiffs Owen and Lamar are thus entitled to recover punitive damages  
13 from Defendants in an amount according to proof.

14 **REQUEST FOR RELIEF**

15 WHEREFORE, Plaintiffs request judgment against the Defendants as follows:

16 1. General damages according to proof, in an amount no less than the jurisdictional  
17 limit of this court;

18 2. Special damages in amounts according to proof, together with prejudgment  
19 interest;

20 3. Exemplary and punitive damages in amounts according to proof;

21 4. Civil penalties pursuant to Section 52(a), 52(b)(2), and 52.1(a) of the California  
22 Civil Code; and Section 1102.5(f) of the California Labor Code;

23 5. Attorneys' fees and costs pursuant to sections 52(a), 52(b)(3), and 52.1(h) of the  
24 California Civil Code; section 12965(b) of the California Government Code, and any other  
25 applicable statute;

26 6. Interest as provided by law;

27 7. Costs of suit incurred herein;



8. Injunctive relief to require Defendants to better train its staff on race harassment, discrimination and retaliation, and develop effective policies and procedures to ensure that when harassment is reported, the company takes effective remedial measures; and

9. For such other and further relief as the Court deems just and proper.

Dated: December 14, 2018

CALIFORNIA CIVIL RIGHTS LAW GROUP



LAWRENCE A. ORGAN  
NAVRUZ AVLONI  
Attorneys for Plaintiffs  
DEMETRIC DI-AZ, OWEN DIAZ and LAMAR  
PATTERSON

**DEMAND FOR JURY TRIAL**

PLAINTIFFS hereby demand a jury trial on all issues.

Dated: December 14, 2018

CALIFORNIA CIVIL RIGHTS LAW GROUP



LAWRENCE A. ORGAN  
NAVRUZ AVLONI  
Attorneys for Plaintiffs  
DEMETRIC DI-AZ, OWEN DIAZ and LAMAR  
PATTERSON

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## EXHIBIT B

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ, and  
LAMAR PATTERSON,

Plaintiffs,

No. 3:17-cv-06748-WHO

vs.

TESLA, INC. Dba TESLA MOTORS,  
INC.; CITISTAFF SOLUTIONS,  
INC.; WEST VALLEY STAFFING  
GROUP; CHARTWELL STAFFING  
SERVICES, INC.; NEXTSOURCE,  
INC.; and DOES 1-50,  
inclusive,

Defendants.

\_\_\_\_\_ /

DEPOSITION OF KEVIN MCGINN

June 17, 2019

Reported by:

Bridget M. Mattos, CSR No. 11410

KEVIN MCGINN  
June 17, 2019

1                   BE IT REMEMBERED that, pursuant to  
2 Notice of Taking Deposition, and on June 17, 2019,  
3 commencing at the hour of 10:12 a.m., at California  
4 Civil Rights Group, 180 Grand Avenue, Oakland,  
5 California, before me, BRIDGET M. MATTOS, CSR No.  
6 11410, there personally appeared

7

8                   KEVIN MCGINN,

9

10 called as a witness by Plaintiff, who, having been  
11 duly sworn, was examined and testified as is  
12 hereinafter set forth.

13                   ---oOo---

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KEVIN MCGINN  
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1 not producing a witness on that basis, on the basis of  
2 our objections and that --

3 MR. ORGAN: I see here.

4 MR. GELLER: We didn't have a relationship  
5 with West Valley.

6 MR. ORGAN: I get that. Okay.

7 So as to Topic 3, there is no relationship  
8 between nextSource and West Valley Staffing; is that  
9 right?

10 MR. GELLER: That's correct.

11 MR. ORGAN: Q. Why don't we start, then,  
12 just going over the contractual relationship between  
13 nextSource and Tesla. How about that, okay?

14 **A. Okay.**

15 **Q. Was there some kind of written contract**  
16 **between Tesla and nextSource?**

17 **A. Yes.**

18 **Q. What was the nature of the contract?**

19 **MR. GELLER: Subject to our objections, you**  
20 **can testify generally about the terms, but we've made**  
21 **objections on the basis of confidentiality and among**  
22 **other things, and I instruct you not to get into the**  
23 **details about the terms.**

24 **THE WITNESS: Generally, nextSource provides**  
25 **certain services to Tesla under the contract.**

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1 Tesla; is that right?

2 **A. Yes.**

3 Q. In addition to providing associates to work  
4 at the Tesla factory -- strike that.

5 Were all of these associates working at the  
6 Tesla factory in Fremont, California?

7 **A. Yes.**

8 Q. In addition to providing for the 30 to 40  
9 associates who, on average, worked at the Fremont  
10 factory, did the contract that nextSource had with  
11 Tesla provide for any other services?

12 **A. Yes.**

13 Q. And what were the other services?

14 **A. So nextSource provides what is known as MSP  
15 services to our clients.**

16 Q. And what does "MSP services" mean?

17 **A. An MSP is a managed service provider.**

18 Q. And what does a managed service provider  
19 entail or encompass?

20 **A. Right. So in connection with that service,  
21 nextSource will provide the technology platform under  
22 which supplier workers -- supplier-employed workers --  
23 would enter, submit timesheets, and the client would  
24 approve those timesheets. So it was an interface  
25 between the supplier workers and the client. That's**

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1 one category of a managed service provider.

2 The second category would be the selection of  
3 suppliers. So supplier selection would be a service  
4 that nextSource provides under its agreement.

5 Q. And what does that mean, selection of  
6 suppliers? What does that involve?

7 A. So a client such as Tesla may have needs in a  
8 certain geography or a certain, say, skill set.  
9 NextSource associates provide only a part of those  
10 needs; right? So nextSource would select suppliers  
11 who would provide additional supplier-employed workers  
12 at the Tesla site.

13 Q. So in other words, nextSource would  
14 coordinate with other staffing agencies to try and  
15 accommodate Tesla's demand for associates at the  
16 Fremont factory?

17 MR. GELLER: Misstates his testimony.  
18 Go ahead.

19 THE WITNESS: NextSource would select  
20 suppliers who would provide resources into the Tesla  
21 factory at the direction of -- day-to-day direction of  
22 Tesla. However, those workers were employed; in other  
23 words, they were recruited, onboarded and paid, and,  
24 if needed, you know, terminated by the supplier  
25 employer.

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1 MR. ORGAN: Q. And when you're referring to  
2 "suppliers" here, you're referring to companies that  
3 would supply manpower; is that correct?

4 A. Yes.

5 Q. I don't mean to be sexist. Manpower, women  
6 power, whatever power. People power.

7 A. Yes.

8 Q. And how did nextSource go about determining  
9 which suppliers would be eligible to provide workers  
10 at the Tesla factory in Fremont?

11 A. So Tesla would have to approve any suppliers  
12 that were -- would be utilized at their site, so the  
13 approval of any supplier sits with Tesla. The --  
14 nextSource might recommend, you know, suppliers that  
15 can support the program at Tesla. So it really comes  
16 down to supplier, selection, and recommendations,  
17 would be a service that nextSource provided.

18 Q. In addition to -- so you mentioned two things  
19 that nextSource would do for Tesla. One would be to  
20 provide head count, actual head count of associates to  
21 the Tesla factory; correct?

22 A. Yes.

23 Q. And then the second thing would be as a  
24 managed service provider; is that correct?

25 A. Yes.



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1 Q. And then under managed service providers, in  
2 terms of the functions that nextSource provided, those  
3 sort of fall into two categories.

4 You would provide a platform, a technology  
5 platform for associates to essentially submit  
6 timesheets; is that correct?

7 MR. GELLER: Misstates his testimony.

8 THE WITNESS: The platform would be for the  
9 supplier-employed workers to submit -- enter and  
10 submit their timesheets, which would then be approved  
11 by the -- well, to be approved by the client.

12 MR. ORGAN: Okay.

13 Q. So for example, nextSource chose CitiStaff  
14 Solutions, Inc., as a provider; is that correct?

15 A. Yes.

16 Q. And then nextSource would establish the  
17 technology platform for CitiStaff associates to, like,  
18 submit their timesheets and things like that; is that  
19 correct?

20 A. Yes.

21 Q. In addition to that, did nextSource provide  
22 any additional services for CitiStaff employees, other  
23 than the timekeeping function?

24 A. No.

25 Q. And then in addition to these sort of -- I'll

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1 Q. And so tell me, what were the functions that  
2 the on-site program team would do that nextSource  
3 provided?

4 A. The key functions of a program team is to  
5 take the client's direction and bring -- and really  
6 facilitate those needs to the supplier workforce. So  
7 one would be, you know -- well that's it. It  
8 basically would -- any kind of client needs or wishes  
9 would be messaged to the suppliers for the suppliers  
10 to take whatever action they would deem necessary for  
11 the workforce. That's one area.

12 The second service that a program team would  
13 perform would be managing the requisitions in the  
14 platform to meet the head count level set by the  
15 client. So, expand just a little bit there: The  
16 client needs additional head count for a shift next  
17 week. NextSource program team will set up the  
18 requisition in the software. The suppliers will then  
19 go out, find, recruit, onboard and hire those workers  
20 to be placed onto the requisition in the system.

21 So I would say it's an information flow.  
22 Information flows through nextSource, data flow, that  
23 sort of thing.

24 Q. So you mentioned essentially two additional  
25 things that, under this third category, that

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1     nextSource would do. One would be to essentially take  
2     a client's direction and then translate or communicate  
3     those needs to the supplier workforce; is that right?

4           **A.     That's correct.**

5           Q.     And then the other thing would be that  
6     nextSource would manage requisitions to ensure that  
7     the head count that Tesla needed was met by working  
8     with the suppliers to fill those requisitions?

9           **A.     Yes.**

10          Q.     So who were the -- other than CitiStaff  
11     Solutions, who were the other suppliers that  
12     nextSource worked with when you first onboarded in  
13     October of 2015, relative to the Tesla Fremont  
14     factory?

15          **A.     CitiStaff is one supplier. Chartwell was the**  
16     **other, primary supplier. I believe there was a third**  
17     **supplier not relevant here, but I'm happy to share the**  
18     **name. Maliko, I believe, was another supplier**  
19     **employer at the Tesla site.**

20          Q.     In terms of providing sort of  
21     production-associate level employees, were the primary  
22     suppliers that nextSource coordinate with CitiStaff  
23     and Chartwell?

24          **A.     Yes.**

25          Q.     Approximately how many workers did nextSource

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1 have to move on that, but I understand.

2 Q. So let's talk about your policies and  
3 procedures related to race harassment in effect from  
4 2014 to present who applied to your professionals.

5 Some of the professionals that nextSource  
6 employed worked at the Tesla factory; correct?

7 **A. Yes.**

8 Q. Do you know who those people were?

9 **A. I believe it was Mr. Wayne Jackson. There**  
10 **was Vanessa parks, and there's a third lady who**  
11 **actually left before -- right at the time I got there.**  
12 **I don't remember her name. It was a third female that**  
13 **worked -- a professional who worked in that Tesla**  
14 **site.**

15 Q. Deb Gryske or Grayske?

16 **A. Deb Gryske didn't work on-site, but she is a**  
17 **professional of nextSource but not on-site at Tesla,**  
18 **if that's the question.**

19 Q. So what was -- Wayne Jackson we've deposed.  
20 I know him. He was your account manager; right?

21 **A. I believe his title was program manager, but**  
22 **essentially.**

23 Q. And what's a program manager function?

24 **A. So the program manager acts as a liaison**  
25 **between Tesla, the client, Tesla's wishes, and the**

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1 suppliers -- you know the supplier workers, the  
2 supplier-employed workers. That's one of the primary  
3 duties of a program manager. He may also gather facts  
4 at the direction of Tesla or at the request of Tesla.  
5 He was a fact gatherer and will communicate to the --  
6 either party to the client side or to the supplier  
7 side, based on the facts.

8 Q. Okay. And then you mentioned a Vanessa  
9 Parks. What was Vanessa Parks' job?

10 A. Vanessa was an administrative role there;  
11 again, a professional of nextSource but worked in a --  
12 in this example, I'm using "administrative" to mean  
13 she would enter requisitions into the system. She  
14 would, you know -- data-keying, that sort of thing,  
15 very administrative type of work.

16 Q. Like an administrative assistant kind of  
17 thing?

18 A. Yeah, at the same level, yes.

19 Q. So Wayne Jackson, was he the highest-level  
20 nextSource employee actually working at the Tesla  
21 factory?

22 A. Yes.

23 Q. And then Vanessa Parks worked in an  
24 administrative role at the Tesla factory too; is that  
25 right?

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1 MS. KUMAGAI: Objection.

2 THE WITNESS: I can't speculate on the  
3 specifics between the employer, supplier and employer,  
4 and their employee. I could not speculate on that.

5 MR. ORGAN: Okay.

6 Q. But in terms of your suppliers, the companies  
7 like CitiStaff and Chartwell, they're essentially just  
8 providing employees to Tesla to work in Tesla's  
9 factory; is that correct?

10 MR. GELLER: Misstates his testimony.  
11 Objection to the form.

12 MS. SWAFFORD-HARRIS: And calls for  
13 speculation.

14 THE WITNESS: The supplier will, in the  
15 course of their employment of the worker, will  
16 recruit, onboard, and pay the worker. They place that  
17 worker at the Tesla site, who then works under the  
18 day-to-day direction and control of Tesla.

19 MR. ORGAN: Q. So if I have this correctly,  
20 then CitiStaff, which was one of the suppliers for  
21 nextSource, CitiStaff would supply or provide an  
22 employee, such as Mr. Diaz, to Tesla and go through  
23 the recruitment, onboarding and paying of Mr. Diaz?  
24 Is that what their function was?

25 MS. KUMAGAI: Objection, to the extent it

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1 calls for speculation.

2 MR. GELLER: Join.

3 THE WITNESS: Yeah, I can't speculate on all  
4 the policies and procedures that might exist between a  
5 third party and their employee. But I'm really  
6 speaking generally to what a supplier does, which is,  
7 if they're supplying labor, right, they would recruit,  
8 onboard and employ and pay that person to work at the  
9 Tesla site under the day-to-day direction of Tesla.

10 MR. ORGAN: Q. But you do at least have  
11 knowledge as to the suppliers who nextSource oversaw,  
12 right, such as CitiStaff; is that correct?

13 MR. GELLER: Misstates his testimony.  
14 Objection to the form. Vague and ambiguous.

15 THE WITNESS: So you're asking me if I'm  
16 aware that Chartwell and CitiStaff were suppliers of  
17 workers into Tesla?

18 MR. ORGAN: Q. Yeah.

19 **A. Yes.**

20 Q. And Chartwell and CitiStaff were suppliers of  
21 workers to Tesla via nextSource; correct? Meaning,  
22 nextSource had a role in making CitiStaff and  
23 Chartwell suppliers to Tesla; right?

24 **A. NextSource's role was in the supplier**  
25 **selection, meaning in the selection of the companies**

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1     that provide the resource. NextSource does not have a  
2     role in the selection of the employees that may work  
3     at the Tesla site. That is up to the -- well, I can't  
4     speculate, but --

5           Q.     I understand.

6                     But in terms of -- I think you said earlier  
7     that there were three suppliers that nextSource had at  
8     the Tesla factory; correct?

9           A.     Yes.

10          Q.     CitiStaff was one of the suppliers that  
11     nextSource had at the Tesla factory; right?

12          A.     Yes.

13          Q.     And Chartwell was another supplier that  
14     nextSource had at the Tesla factory?

15          A.     Yes.

16          Q.     And then there was a third one that I can't  
17     remember the name, but there was a third organization  
18     or entity that also supplied workers to the Tesla  
19     factory; right?

20          A.     Yes.

21          Q.     Okay. And each of those agencies, at least  
22     as to CitiStaff and Chartwell, they would do the  
23     recruiting of employees, not nextSource; correct?

24          A.     Yes.

25          Q.     And CitiStaff and Chartwell would also take



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1 I'm not going to permit you to testify about that.

2 MS. SWAFFORD-HARRIS: Tesla joins that  
3 objection.

4 MR. ORGAN: Q. I'm not asking for the  
5 amounts; I just want to know the process.

6 In terms of how nextSource gets paid for the  
7 employees that are recruited through the suppliers,  
8 how do you get paid for those employees?

9 MR. GELLER: It's vague, and I also object to  
10 the form of the question.

11 Go ahead.

12 THE WITNESS: I'll speak generally on this  
13 because I don't -- I'll speak generally about this.

14 So suppliers will submit their timesheets  
15 through the system. The client will approve the  
16 timesheets. What happens here is nextSource will --  
17 nextSource professionals will pull data from the  
18 system and prepare a billing to the client. Client  
19 pays nextSource, then nextSource pays its suppliers.

20 And the last thing I'll say about this, you  
21 remember there's a contractual relationship between  
22 nextSource and Tesla, under which one of the items I  
23 failed to mention earlier, one of the key items we  
24 provide, consolidated billing, meaning that it's  
25 easier for the client to approve one summary bill than

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1 it is a hundred bills from a hundred suppliers. So  
2 the consolidated billing is prepared by nextSource as  
3 the MSP to the client. And the client pays  
4 nextSource; nextSource pays the various suppliers.

5 Q. Okay. So for example, in the Tesla  
6 situation, just taking the two main suppliers there,  
7 Chartwell and CitiStaff, the Chartwell CitiStaff  
8 employees who are working under the direction and  
9 control of Tesla, they enter their time into the TAMS  
10 system. The TAMS system then gets -- that time gets  
11 approved by Tesla, and then nextSource bills for that  
12 time, consolidated for both CitiStaff and Chartwell;  
13 is that correct?

14 MR. GELLER: Misstates his testimony.

15 THE WITNESS: The timesheets are submitted by  
16 the workers of the suppliers. The consolidated  
17 billing is prepared by -- the timesheets get approved  
18 by the client. We refer to them as the hiring  
19 manager, usually.

20 The consolidated billing is prepared by  
21 nextSource, presented to Tesla. Tesla pays  
22 nextSource; nextSource pays its suppliers. That's a  
23 general -- that is how these arrangements work.

24 MR. ORGAN: Q. And that's your understanding  
25 of how the arrangements work with Tesla; is that

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1           **A. I'm aware of that name through the**  
2   **litigation.**

3           Q. And was nextSource ever aware that -- strike  
4   that.

5                   Prior to the litigation, was nextSource ever  
6   aware that Judy Timbreza was accused of using the "N"  
7   word, or a version thereof, towards Owen Diaz?

8           **A. Prior to the litigation, no, nextSource was**  
9   **not involved, did not investigate, did not fact-gather**  
10   **anything around that incident.**

11          Q. Certainly, if nextSource became aware of the  
12   use of the "N" word at the Tesla factory, they would  
13   gather facts about that information; right?

14               MR. GELLER: Calls for speculation.

15               MS. SWAFFORD-HARRIS: Tesla joins. It's also  
16   incomplete hypothetical.

17               THE WITNESS: Yes, theoretically speculating  
18   that if we're aware of a nextSource associate or a  
19   nextSource supplier employee doing something such as  
20   that, I would speculate that we would gather the facts  
21   on that.

22               MR. ORGAN: Q. And the reason you would  
23   gather the facts on that is, use of the "N" word is  
24   highly offensive conduct; right?

25           **A. Yes.**

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1 The top one is an email from Vanessa Parks to Ed  
2 Romero, talking about -- it says here, "All elevator  
3 contractors were under recycling at the time of the  
4 increase."

5 Do you know what that's referring to?

6 MR. GELLER: This is outside the scope of the  
7 deposition topics.

8 THE WITNESS: I mean, I can only speculate.  
9 I'm aware that the elevator was a particular  
10 department at Tesla; I know that the recycling was a  
11 particular department at Tesla. Beyond those two  
12 facts, I can't speak to anything on this email about  
13 increases for a supplier associate.

14 MR. ORGAN: Q. Is Vanessa Parks still with  
15 nextSource?

16 **A. No.**

17 Q. Do you know where she went after working for  
18 nextSource?

19 **A. No.**

20 MR. ORGAN: This is 178.

21 (Whereupon Deposition Exhibit 178  
22 was marked for identification.)

23 MR. ORGAN: Exhibit 178, for the record, is a  
24 one-page document Bates-stamped NS-25. It appears to  
25 be an email from Ed Romero to Wayne Jackson, and then

KEVIN MCGINN  
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1 an email from Vanessa Parks back to Ed Romero.

2 Q. This, again, is sort of the typical procedure  
3 that would go back and forth between Tesla and  
4 nextSource relative to employees supplied through  
5 nextSource suppliers; is that correct?

6 A. This email is a Ed Romero, the employee of  
7 Tesla, directing Wayne to make a change to the pay  
8 rate. I'm assuming he means in TAMS.

9 So we talked about the TAMS maintenance as  
10 one of our functions. So to the degree this is him  
11 saying change the TAMS rate to go from 16 to 18, then,  
12 yes, that would be a normal function directed by the  
13 client to make -- administer changes in the tool.  
14 That would be normal.

15 Q. Okay.

16 Now, this was previously marked as Exhibit  
17 91.

18 Exhibit 91, for the record, is a two-page  
19 document Bates-stamped CitiStaff 6 and 7. And the  
20 first -- it's two emails, one from January 28th of  
21 2016, and then the top one from February 2nd of 2016.  
22 And it appears that -- I guess my question is this:  
23 Why would Vanessa Parks be emailing to Monica De Leon  
24 from CitiStaff about pay increase -- pay rate  
25 increases to the following contractors. Why would she

KEVIN MCGINN  
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1 be doing that?

2 MR. GELLER: Excuse me. Calls for  
3 speculation. It's outside the scope of the  
4 deposition.

5 Go ahead.

6 THE WITNESS: Yeah, this is normal. I'd  
7 speculate what I'm saying here is, in connection with  
8 the email from three days prior -- I don't know if it  
9 was Thursday -- where Tesla directed nextSource to  
10 make the administrative change in the VMS system, this  
11 is the other side of that -- it's client to  
12 nextSource. Right? This is the other side. This is  
13 nextSource telling the supplier, right, that Tesla  
14 wants this pay rate changed.

15 So the direction starts with Tesla, Ed  
16 Romero. Funnels through the facilitator, nextSource,  
17 who changes the VMS and then who takes that same pay  
18 change that Tesla directed, and directs --  
19 communicates to the supplier Tesla's wishes.

20 So this is the other side of the  
21 communication, starting with the client on a pay  
22 change. So this is, I would characterize it as  
23 standard.

24 MR. ORGAN: Q. So in other words, Exhibit 91  
25 is the other side of Exhibit 178?

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**EXHIBITS TO DEPOSITION OF KEVIN MCGINN**  
**REDACTED – CONDITIONALLY FILED UNDER SEAL**

KEVIN MCGINN  
June 17, 2019

1 State of California )

2 County of Marin )

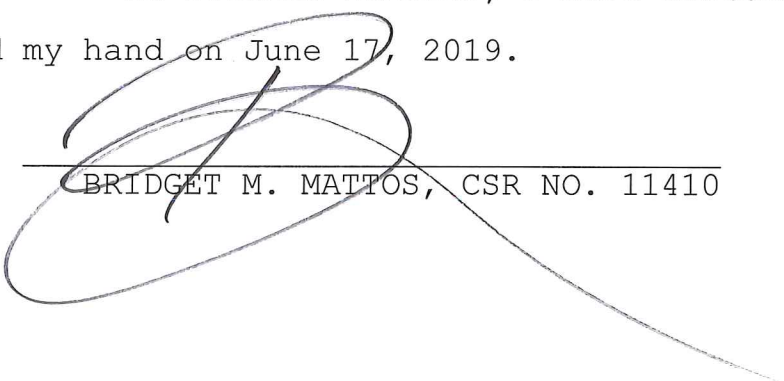
3

4 I, Bridget M. Mattos, hereby certify  
5 that the witness in the foregoing deposition was by me  
6 duly sworn to testify to the truth, the whole truth  
7 and nothing but the truth in the within entitled  
8 cause; that said deposition was taken at the time and  
9 place herein named; that the deposition is a true  
10 record of the witness's testimony as reported to the  
11 best of my ability by me, a duly certified shorthand  
12 reporter and disinterested person, and was thereafter  
13 transcribed under my direction into typewriting by  
14 computer; that the witness was given an opportunity to  
15 read, correct and sign the deposition.

16 I further certify that I am not  
17 interested in the outcome of said action nor connected  
18 with or related to any of the parties in said action  
19 nor to their respective counsel.

20 IN WITNESS WHEREOF, I have hereunder  
21 subscribed my hand on June 17, 2019.

22

23   
BRIDGET M. MATTOS, CSR NO. 11410

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## EXHIBIT C

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ, and  
LAMAR PATTERSON,

Plaintiffs,

No. 3:17-cv-06748-WHO

vs.

TESLA, INC. dba TESLA MOTORS,  
INC.; CITISTAFF SOLUTIONS,  
INC.; WEST VALLEY STAFFING  
GROUP; CHARTWELL STAFFING  
SERVICES, INC.; NEXTSOURCE,  
INC.; and DOES 1-50,  
inclusive,

Defendants.

\_\_\_\_\_ /

DEPOSITION OF WAYNE JACKSON

Friday, May 17, 2019

Reported by: Patricia Rosinski, CSR #4555

Job No. 13571

WAYNE JACKSON  
May 17, 2019

1           BE IT REMEMBERED that, pursuant to Deposition Subpoena  
2   and Notice of Taking Deposition, and on Friday, May 17, 2019,  
3   commencing at the hour of 10:08 a.m., thereof, at California  
4   Civil Rights Group, 180 Grand Avenue, Suite 1380, Oakland,  
5   California, before me, PATRICIA ROSINSKI, CSR No. 4555, a  
6   Certified Shorthand Reporter in and for the State of  
7   California, there personally appeared

8

9

WAYNE JACKSON,

10

11   produced as a witness in the above-entitled action, who,  
12   being by me first duly sworn, was thereupon examined as a  
13   witness in said action.

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WAYNE JACKSON

May 17, 2019

1           **A.     I was promoted to the program manager.**

2           Q.     How long were you a program manager for  
3           nextSource?

4           **A.     Oh, boy, about a year. About a year's worth.**

5           Q.     Any other jobs with nextSource other than  
6           contract recruiter and program manager?

7           **A.     No, sir.**

8           Q.     Why did you leave nextSource?

9           **A.     Disagreement of things.**

10          Q.     Without getting into the details of the  
11          disagreement, other than -- let me ask you this: Did it  
12          have anything to do with the way workers were treated at  
13          Tesla?

14          **A.     No, it wasn't that.**

15          Q.     In terms of the program manager position that  
16          you had --

17          **A.     Uh-hum.**

18          Q.     -- you were a program manager for employees at  
19          the Tesla factory.

20                   Is that correct?

21           MR. ARANEDA: Objection. Vague.

22           THE WITNESS: It was more of a liaison. I  
23          don't think I was really -- I didn't -- they called it a  
24          program manager, but I didn't really manage the  
25          employees, I guess is the best way to put it.

WAYNE JACKSON

May 17, 2019

1 MR. ORGAN: Q. What was nextSource's  
2 relationship to Tesla, as you understood it?

3 A. They were a service provider.

4 Q. What do you mean by "a service provider"?

5 A. In the sense of they weren't a staffing agency  
6 or anything. Like I said, more of a liaison between a  
7 staffing agency and Tesla for services Tesla had  
8 requested.

9 Q. When you were working as a recruiter for  
10 nextSource, were you recruiting employees to Tesla?

11 A. Yes, sir.

12 Q. The employees who you were recruiting to Tesla,  
13 were they primarily to work as production associates at  
14 the Tesla factory?

15 A. Not necessarily. They were different areas of  
16 facilities. That was probably one of the main areas.

17 Q. The facilities workers, what were the types of  
18 jobs that they were typically doing that you were  
19 recruiting for?

20 A. HVAC techs, electricians, things of that  
21 nature, power washers.

22 Q. Who was your main contact person, then, at  
23 nextSource when you were doing recruiting?

24 A. My manager was Terri Garrett.

25 Q. Do you remember what Terri Garrett's position

WAYNE JACKSON  
May 17, 2019

1       **or less.**

2           Q.     Tell me how it worked in terms of, let's say  
3     someone raised a complaint of discrimination or  
4     harassment --

5           **A.     Uh-hum.**

6           Q.     -- what was your understanding of how such a  
7     complaint was to be handled?

8           MR. ARANEDA:   It's vague.

9           MR. ORGAN:   It is a little big vague.   Let me  
10    try it again so it's a little clearer.

11          THE WITNESS:   Uh-hum.

12               MR. ORGAN:   Q.   Let's assume that a contract  
13    employee, meaning someone who wasn't a regular Tesla  
14    employee but was a contract employee who nextSource was  
15    doing liaison with, what was your understanding of the  
16    procedure for -- if a contract employee for one of the  
17    companies that you were doing liaison for made a  
18    complaint of harassment or discrimination, what was the  
19    process that was supposed to be followed?

20           **A.     I alerted the agency, usually one of the first**  
21    **things I did, whatever supplier they were from.   I would**  
22    **gather any information I could get, present that to the**  
23    **agency, and then they would kind of conduct their**  
24    **investigation from there.**

25          Q.     When such a complaint was raised, what was your

WAYNE JACKSON

May 17, 2019

1 Tesla via email?

2 A. Nine out of ten times, yes, it would be email.

3 Sometimes, no.

4 Q. In terms of training of the contract employees,  
5 did nextSource play any role in training of the  
6 employees?

7 MR. ARANEDA: Objection. Vague.

8 THE WITNESS: Not that I was aware of, sir, no.

9 MR. ORGAN: Okay.

10 THE WITNESS: Other than safety, maybe, but  
11 that was about it.

12 MR. ORGAN: Q. Not on the issue of harassment  
13 or discrimination?

14 A. No, sir.

15 Q. Was it your understanding that the contract  
16 employees who worked at the Tesla factory were subject  
17 to the policies and procedures that Tesla had for its  
18 workers?

19 MR. ARANEDA: Objection. Vague.

20 Go ahead.

21 MS. JENG: It calls for speculation.

22 THE WITNESS: Yeah, I'm not sure on that, to be  
23 honest.

24 MR. ORGAN: Q. Did nextSource have any  
25 contract employees working at the Tesla factory?

WAYNE JACKSON

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1           **A.     Not to my knowledge.**

2           **Q.     NextSource, basically, just coordinated between**  
3           **the contractors and Tesla; right?**

4           **A.     Yes, sir.**

5           **Q.     And I think you said earlier that nextSource**  
6           **would typically get a request from Tesla for, like, a**  
7           **certain number of workers doing a certain type of work,**  
8           **and then nextSource would go to a contractor and say,**  
9           **"Can you fulfill that role"?**

10          **A.     To -- we call them suppliers, yes.**

11          Q.     Suppliers, okay.

12          **A.     Yes.**

13          Q.     What was your understanding of the type of  
14          training that was done for workers in terms of  
15          harassment or discrimination policy?

16               MR. ARANEDA:  Objection.  Vague.

17               MR. ORGAN:  Yes, let me --

18               MS. STEVENS:  It assumes facts not in evidence.

19               MR. ORGAN:  Let me try a different question.

20          **Q.     What was your understanding of what kind of**  
21           **training was done for contract workers who nextSource**  
22           **would ask to supply workers in terms of discrimination**  
23           **or harassment?**

24               MR. ARANEDA:  Objection.  It lacks foundation.

25               Go ahead.



WAYNE JACKSON  
May 17, 2019

1 THE WITNESS: As far as I'm aware, I believe  
2 they were all supposed to have any training at their  
3 agency.

4 MR. ORGAN: Okay.

5 THE WITNESS: Yeah.

6 MR. ORGAN: Q. But in terms of your -- when  
7 you became the manager, the program manager, you did  
8 some investigations into complaints of discrimination  
9 and harassment.

10 Is that true?

11 A. Some, yes, but more or less  
12 information-gathering. You know, I would gather the  
13 information, and then submit it to the agency.

14 Q. Okay. And in terms of your training into  
15 investigating or fact-gathering relative to claims of  
16 discrimination or harassment, would you agree that any  
17 kind of investigation you would be doing would need to  
18 be prompt, objective, and timely -- prompt, objective  
19 and thorough -- sorry -- prompt, objective, and  
20 thorough?

21 A. Yes.

22 Q. And did you participate in terms of any  
23 investigations or fact-finding relative to claims of  
24 discrimination or harassment at the Tesla factory?

25 A. Yes.

WAYNE JACKSON

May 17, 2019

1           A.     I don't know.

2           Q.     Okay. Going back to Mr. Diaz's complaint about  
3 the jigaboo, what did you do to investigate that  
4 incident?

5           A.     If I recall correctly, I got statements. I got  
6 photographs of the drawing. I alerted Chartwell -- I  
7 believe it was Chartwell. It might have been CitiStaff;  
8 I can't remember.

9                   Like I say, we had contractors from different  
10 suppliers.

11          Q.     Sure.

12          A.     And I alerted the manager for Tesla over that  
13 area, which was Victor Quintero.

14          Q.     Owen Diaz worked for CitiStaff.

15                   Do you remember that?

16          A.     I don't recall if it was CitiStaff or  
17 Chartwell. Like I said, we had several suppliers, so...  
18 It's been three, four years, so I couldn't tell you  
19 exactly which one.

20          Q.     Do you remember the person who put up the  
21 jigaboo drawing was Ramon Martinez?

22          A.     Yes. I believe so, yes.

23          Q.     In addition to getting statements from  
24 Mr. Martinez and Mr. Diaz, did you get statements from  
25 anybody else other than those two?

WAYNE JACKSON

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1           **A.     I believe --**

2           Q.     Well, let me --

3           **A.     I don't recall.**

4           Q.     Let me just --

5           **A.     I don't recall.**

6           Q.     Let me -- I forgot -- let me ask the  
7 preliminary question: Did you get statements from  
8 Ramon Martinez and Owen Diaz, do you recall?

9           **A.     Actually, I believe I referred them both to**  
10 **their agencies.**

11          Q.     Okay.

12          **A.     If I'm not mistaken.**

13          Q.     Okay. Do you recall seeing statements -- a  
14 statement from Ramon Martinez relative to the jigaboo  
15 poster?

16          **A.     I don't recall.**

17          Q.     Do you recall seeing any statement from  
18 Owen Diaz relative to the jigaboo poster?

19          **A.     I also don't recall. I'm sure I did, but I**  
20 **don't recall.**

21          Q.     When I say "poster," I mean a drawing.  
22 It was actually a drawing on the cardboard;  
23 right?

24          **A.     Yes, sir.**

25          Q.     Did you review any documents to get ready for

WAYNE JACKSON

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1 safety, yeah, because he had -- I believe he had ran  
2 into the elevator a couple of times.

3 Q. In terms of running into the elevator --

4 A. The elevators --

5 Q. -- with the forklift?

6 A. Yeah, they were going -- he was going too fast  
7 and would ran in and damaged the elevators on a few  
8 occasions.

9 And he also -- like I said, his attitude, he  
10 was -- I don't know the word to use, but he was -- if I  
11 remember correctly, he really got into it with a lot of  
12 other staff. Argumentative, I guess, is probably the  
13 word; I don't know.

14 Q. Now, in terms of Mr. Diaz's attitude or  
15 argumentativeness, did that occur after the jigaboo  
16 drawing happened?

17 A. No, sir, that was from, probably, day one, to  
18 be honest.

19 Q. So from day one that Mr. Diaz was working at  
20 the factory, as far as you understood, Mr. Diaz had an  
21 attitude issue?

22 A. I don't know if it was an attitude issue, but,  
23 like I said, he got -- he got into it with several other  
24 contractors, as well as Tesla staff.

25 MR. HORTON: Pardon me. Can I ask for a

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1       doing disciplinary or things of that nature, if I'm not  
2       mistaken.

3               MR. ORGAN: Q. So your understanding of  
4       Ed Romero's tasks, though, relative to the elevator  
5       operators was that he could do scheduling, right --

6               **A. Yes, sir.**

7               Q. -- for them, and that Mr. Romero would at least  
8       direct their work; right?

9               **A. Yes, sir.**

10              **Q. How would discipline towards contract employees**  
11       **take place, then, typically?**

12              **A. If there was a complaint, I would alert their**  
13       **agency of the complaint.**

14              **Q. And then it was up to the agency to do the**  
15       **disciplinary action.**

16              **Is that right?**

17              **A. Yes, sir. Whether they were terminated, I**  
18       **couldn't terminate. They weren't my employees.**

19              Q. I see.

20              **A. Yeah.**

21              Q. Could you recommend termination for people?

22              **A. I mean, I can make a recommendation, but it**  
23       **wasn't -- the final decision wasn't mine.**

24              Q. I see.

25              Then in terms of Tesla's role in any kind of

WAYNE JACKSON

May 17, 2019

1 discipline, could Tesla also make recommendations for  
2 termination or discipline?

3 MR. ARANEDA: Objection. It lacks foundation.  
4 It calls for speculation.

5 THE WITNESS: Yeah, I guess they could. I  
6 don't, you know --

7 MR. ORGAN: Q. You don't know?

8 A. Yeah, not on that -- that level, no.

9 Q. In terms of your observations, though, you did  
10 have an occasion to observe employees get issued  
11 discipline; right?

12 A. Yes, sir.

13 Q. Based on your observations of the discipline  
14 that was given to employees, did you ever see any kind  
15 of discipline that was recommended by Tesla supervisors  
16 that was then implemented by the agencies --

17 MR. ARANEDA: Objection.

18 MR. ORGAN: Q. -- or the suppliers?

19 MR. ARANEDA: Vague.

20 THE WITNESS: No, sir.

21 Sorry.

22 MR. ORGAN: Q. You just didn't get into that  
23 kind of detail.

24 Is that right?

25 A. Yes, sir, I let the agencies handle it because

WAYNE JACKSON

May 17, 2019

1           **it was their employee.**

2           Q.     I think I owe you a check for mileage, so I'm  
3           going to give you that.

4           **A.     Okay.**

5           MR. ARANEDA:   And the appearance fee also.

6           MR. ORGAN:    I thought that we sent the  
7           appearance fee --

8           MR. ARANEDA:   No.

9           MR. ORGAN:    -- did we not?

10          MR. ARANEDA:   No.

11          MR. ORGAN:    Okay.   I'll give you a check for  
12          the appearance fee, too.

13          Let's take a short break, and then we'll start  
14          going into the documents.

15          MR. ARANEDA:   Okay.

16          (Whereupon, a recess was held from  
17          10:52 a.m. to 11:02 a.m.)

18          MR. ORGAN:    Q.   In terms of your discussions  
19          with Victor Quintero, do you recall anything else that  
20          you talked about other than what you've already  
21          testified to about Owen Diaz?

22          **A.     Not that I can recall.**

23          Q.     Do you recall any of your conversations with  
24          Ed Romero in terms of Owen Diaz?

25          **A.     Specifics, no.   I don't recall specifics.   I**

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1 Judy Timbreza.

2 (Document reviewed by the deponent.)

3 MR. ORGAN: Q. I'm wondering if this helps  
4 refresh your recollection at all.

5 MR. ARANEDA: Objection. It calls for  
6 speculation.

7 THE WITNESS: Yeah, I remember there was  
8 something. Like I said, I just don't remember exactly  
9 what occurred with Ms. Timbreza.

10 MR. ORGAN: Q. Was Mr. Timbreza, was he a  
11 nextSource employee?

12 A. None of them were nextSource employees, really.  
13 They were all --

14 Q. Okay.

15 A. -- agencies. So, you know, I mean, she was  
16 not.

17 Q. And Judy Timbreza -- that's a man; right?

18 A. No, that's a woman, if I'm not mistaken.

19 Q. Is it?

20 A. Yes.

21 Q. Oh, okay. Because I had -- okay.

22 A. I could have sworn it was a lady. It's been a  
23 long while, but I don't think it's been that long.

24 Q. Okay. The only reason, if you look at this  
25 document, it says here, "Mr. Owen still feels he can



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1 became aware of an incident between Mr. Martinez and  
2 Mr. Diaz.

3 Is that correct?

4 A. Yes, sir. I was -- honestly, I was still in a  
5 recruiter's role at that point. They hadn't  
6 transitioned me over as of yet.

7 Q. I see.

8 A. So I was kind of trying to fill two roles at  
9 once.

10 Q. Wearing two hats?

11 A. Yes, sir.

12 Q. Do you remember any of the details of what the  
13 issue was?

14 A. If I'm not mistaken, there was some type of  
15 verbal altercation.

16 Q. Mr. Martinez worked in recycling.

17 Is that right?

18 A. Yes, sir.

19 Q. And Mr. Diaz worked as one of the elevator --

20 A. Yes.

21 Q. -- operators?

22 A. Yes, sir.

23 Q. Do you remember what the nature of the verbal  
24 altercation was in this October 2015 time period?

25 A. I could not tell you the details, to be honest,

WAYNE JACKSON

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1 I -- it's been so long. I remember it was something to  
2 the effect they were trying to move some recycling  
3 material in the elevators, and I guess there was -- I  
4 don't know what -- I can't remember what it was, but  
5 Ramon and Mr. Diaz got into a verbal altercation over  
6 the use of the elevator.

7 Q. Did you do an investigation into that incident?

8 A. Like I said, I was just starting in that role,  
9 so it wasn't really my role to do that at that point. I  
10 was still, honestly, a recruiter.

11 Q. Okay.

12 A. I asked Miss Garrett what did she want me to  
13 do. I believe we got statements from each of them, and  
14 I let the -- let the agencies handle it from there.

15 Q. Do you know who a Deb Gryske is?

16 A. Yes, she was a -- I can't remember her role at  
17 nextSource. More of a technology person.

18 Q. Okay.

19 We're going to -- this is Exhibit 124?

20 THE REPORTER: Yes.

21 (Whereupon, Plaintiffs' Exhibit 124 was marked  
22 for identification and is attached hereto.)

23 (Document reviewed by the deponent.)

24 MR. ORGAN: Exhibit 124, for the record, is a  
25 two-page document Bates-stamped TESLA-635 and 636.

WAYNE JACKSON

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1 Q. And it references your -- it says you're  
2 actually on the phone doing the investigation of the  
3 Ramon/Owen incident.

4 A. I was probably on the phone with Chartwell, I  
5 would assume, at that time.

6 Q. Chartwell was the contractor that was employing  
7 Mr. Martinez.

8 Is that right?

9 A. Yes, it was either Chartwell or CitiStaff. I  
10 can have been talking to both of them.

11 Q. Okay.

12 A. I was just more or less alerting them as to  
13 what was going on.

14 Q. Okay. Do you remember who you were talking to  
15 at Chartwell?

16 A. Most likely it was Veronica and at CitiStaff --  
17 I can't think of the lady's name at Citistaff. She was  
18 very difficult to reach.

19 Q. Okay. Let's see.

20 (Whereupon, Plaintiffs' Exhibit 125 was marked  
21 for identification and is attached hereto.)

22 MR. ORGAN: Exhibit 125, for the record, is a  
23 one-page document Bates-stamped TESLA- -- I think  
24 it's -- 644. It's either 644 or 611. But, anyway,  
25 they're emails from October 17th and October 19th of

WAYNE JACKSON

May 17, 2019

1       2015.

2                   And the first document -- or the first email  
3       down at the bottom of Exhibit 125, this appears to be a  
4       complaint by Mr. Martinez about Mr. Diaz.

5                   (Document reviewed by the deponent.)

6                   MR. ORGAN: Q. Was that -- let me ask you  
7       this: After you read this, does it refresh your  
8       recollection as to who actually made the complaint  
9       against each other in terms of Mr. Romero [sic] or  
10      Mr. Diaz?

11                  **A. No. I couldn't tell you who made the**  
12      **complaint.**

13                  Q. Okay.

14                   (Whereupon, Plaintiffs' Exhibit 126 was marked  
15                   for identification and is attached hereto.)

16                  MR. ORGAN: Exhibit 126, for the record, is a  
17      four-page document, Bates-stamped TESLA-133 to 136. It  
18      is a series of emails starting with a complaint by  
19      Mr. Diaz on 17th of October 2015, and then up to the  
20      20th of October.

21                  Q. And I'm wondering if this refreshes your  
22      recollection.

23                  MR. ARANEDA: Take your time and read through  
24      it.

25                  MR. ORGAN: Yes.

WAYNE JACKSON  
May 17, 2019

1 (Document reviewed by the deponent.)

2 THE WITNESS: And what was the question? I'm  
3 sorry.

4 MR. ORGAN: Q. I'm just wondering if this  
5 helps refresh your recollection in terms of --

6 A. Yeah, I believe this was the verbal altercation  
7 that they had gotten into, yes.

8 Q. And Mr. Diaz suggests that Mr. Martinez started  
9 this altercation by yelling at him in a threatening  
10 manner, suggesting that Mr. Diaz had a problem with him;  
11 right? That's what Mr. Diaz's complaint was.

12 MR. ARANEDA: The document speaks for itself.

13 THE WITNESS: Yeah, that's what it says here.

14 MR. ORGAN: Q. Does that refresh your  
15 recollection -- did you actually talk to Mr. Diaz after  
16 you received his written complaint here in Exhibit 126?

17 A. I believe so, yes, sir.

18 Q. And was Mr. Diaz's complaint to you verbally  
19 the same as his complaint in writing?

20 A. No, sir.

21 Q. There were additional things that Mr. Diaz told  
22 you in the -- when he talked to you --

23 A. Well, what he's saying here about he thought he  
24 was going to be struck, he didn't really express that.

25 Q. He didn't express that when you talked to him?

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1           **A.     No, sir.**

2           **Q.     You talked to Mr. Diaz after you received a**  
3 **copy of his email complaint.**

4           **Is that true?**

5           **A.     Yes, sir, I believe so.**

6           **Q.     Did you ask him whether or not Mr. Martinez**  
7 **threatened to hit him?**

8           **A.     It was more or less the conversation, if I**  
9 **remember correctly -- Mr. Diaz was more of, "He's not**  
10 **going to talk to me like that."**

11           **So, yeah, it was more of, like I said, "He**  
12 **wasn't going to talk to me like that" more so than**  
13 **anything. It wasn't -- he didn't state that he was --**  
14 **that he was going to fight, per se, I guess, or be**  
15 **struck.**

16           Q.     Do you have notes that you took of that  
17 interview you did with Mr. Diaz?

18           **A.     I don't, no, sir.**

19           Q.     Did you take notes at the time --

20           **A.     Yes, sir.**

21           Q.     -- that you were meeting with Mr. Diaz?

22           **A.     Yes, sir. Every time I met with anybody, I**  
23 **would take notes. But I don't have those anymore.**

24           Q.     What did you do with the notes once you  
25 finished talking to Mr. Diaz?

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1 practices; correct?

2 A. Yes, sir.

3 Q. And you do recall that you created notes  
4 relative to your interview with Mr. Diaz; right?

5 A. I do believe so, yes, sir.

6 Q. And, then, did you create notes, any notes  
7 relative to your interview with Ramon Martinez?

8 A. Yes, sir.

9 Q. You would have taken the same thing in terms of  
10 documenting what Mr. Martinez told you in your  
11 interview.

12 Is that right?

13 A. Yes, sir.

14 Q. And you would have typed those notes up, and  
15 then sent that to the agency and to at least someone  
16 in -- Terri Garrett in nextSource; right?

17 A. Yes, sir.

18 Q. Where would you save the documents that you  
19 created? The typewritten documents you created, where  
20 would those be saved?

21 A. Most likely on the laptop that I had.

22 Q. Did your laptop connect to some kind of server  
23 so that it would back up whatever information you were  
24 typing?

25 A. Not that I recall.

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1 Q. The laptop that you created the notes on, that  
2 would have been the laptop, though, that was the  
3 company's -- was nextSource's laptop?

4 A. Yes, sir.

5 Q. And when you left nextSource, you returned that  
6 laptop to them; correct?

7 A. Yes, sir.

8 Q. Do you remember the name or the title of the  
9 notes that you created?

10 A. I have no recollection. I'm sorry. It's been  
11 so long, yeah, I couldn't.

12 Q. I get that.

13 A. Okay.

14 Q. If you look at the second page of Exhibit 126,  
15 it mentions --

16 MR. ARANEDA: What Bates are you looking at?

17 MR. ORGAN: 134, the second page.

18 MR. ARANEDA: Okay.

19 MR. ORGAN: Q. -- there's an email kind of in  
20 the middle from Terri Garrett to Erin Marconi.

21 Who was Erin Marconi?

22 A. I believe she was in human resources for Tesla.

23 Q. Was that typical protocol to at least inform  
24 Tesla HR whenever there was some kind of fact-gathering  
25 or investigation being done?



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1           **A.     Yes, sir, if there was something serious. If**  
2           **it was someone late, no, we wouldn't notify them, but**  
3           **anything else, yes.**

4           **Q.     Right.**

5           **So any kind of verbal altercation typically**  
6           **would be copied to Tesla; right?**

7           **A.     I wouldn't --**

8           **Q.     Well, let me --**

9           **A.     -- say that, no, sir.**

10          **Q.     Any verbal altercation where there's**  
11          **allegations of some kind of threat, that would be copied**  
12          **to Tesla --**

13          **A.     Yes, sir.**

14          **Q.     -- right?**

15          And, then, in that email from Terri to Erin,  
16          Terri mentions in there, it says:

17                 "It looks like Victor is asking Ed Romero to  
18                 get involved in a temporary worker ER [sic]  
19                 issue. My recommendation is that Ed not be  
20                 involved."

21                 I'm just wondering, do you have any  
22                 recollection of talking to Terri Garrett about Victor or  
23                 Ed's involvement in this investigation?

24          **A.     Yes. The email even shows that she had asked**  
25          **me, you know, why is Ed doing this, and I said, "He was**

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1       **instructed by Victor."**

2           Q.     Okay. And, then, in terms of any discussions  
3       that you had with Ed Romero, do you recall any  
4       discussions with Ed about this altercation between  
5       Mr. Diaz and Martinez?

6           A.     I'm sure I did, but I can't recall what the  
7       details were, to be honest.

8           Q.     What was the ultimate outcome of this  
9       investigation that you did into 126 -- into the  
10      information in Exhibit 126? Do you remember?

11          A.     I don't recall. I believe it was a -- a  
12      warning was issued. Yeah, I believe so.

13          Q.     Was a warning issued to Mr. Martinez, then?

14          A.     I don't recall. I think it was both in the  
15      sense if I -- I can't even remember because, like I  
16      said, Mr. Diaz had -- the timing is probably what's  
17      throwing me off a little bit.

18                But he had a few interactions with employees  
19      where he was pretty aggressive, I guess you could say,  
20      and we probably verbally counseled both of them to --  
21      to, you know, more or less, play nice with each other in  
22      the sandbox.

23          Q.     And do you think -- if you go back to  
24      Exhibit 125 where Mr. Ramon Martinez has that email on  
25      October 17th at 4:56 a.m., do you recall that

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1 This is 127?

2 THE REPORTER: Yes.

3 (Whereupon, Plaintiffs' Exhibit 127 was marked  
4 for identification and is attached hereto.)

5 MR. ORGAN: Exhibit 127, for the record, is a  
6 two-page document Bates-stamped TESLA-646 and 647, and  
7 they are emails from October 19th to October 21st.

8 (Document reviewed by the deponent.)

9 MR. ORGAN: Q. There's a reference here to a  
10 Rothaj. I think that's Rothaj Foster.

11 Is that correct?

12 A. I don't remember the last name.

13 Q. Do you remember who Rothaj worked for?

14 A. No, I don't, sir.

15 Q. If you look at your email down at the bottom,  
16 that's an email that you sent to Terri Garrett?

17 A. Uh-hum.

18 Q. Do you see that?

19 A. Yes.

20 Q. It says (as read):

21 This issue seems to be related to this, and we  
22 are going to have to do some in-depth  
23 investigation.

24 Do you remember any discussions that you had  
25 with Terri Garrett about that investigation in this

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1 -- and then Erin Marconi?

2 **A. Yes, sir.**

3 Q. There are three recommendations -- or there are  
4 three items that are identified as important here in  
5 Exhibit 128.

6 Did you yourself talk to Ramon about --  
7 Ramon Martinez about in terms of there's no further room  
8 for error?

9 **A. Yes, sir.**

10 Q. So you yourself had a conversation with  
11 Mr. Martinez; correct?

12 **A. Yes, I did have a conversation with**  
13 **Mr. Martinez, and I also referred him to his agency who**  
14 **also had a more in-depth conversation with him.**

15 Q. In the conversation that you had with  
16 Mr. Martinez, you made it clear to Mr. Martinez that you  
17 thought that the jigaboo drawing was inappropriate;  
18 right?

19 **A. Yes, sir.**

20 Q. And you also made it clear to Mr. Martinez that  
21 you thought the jigaboo poster was offensive to  
22 African-Americans; right?

23 **A. Yes, sir.**

24 Q. In terms of Mr. Martinez's response, what was  
25 his response when you told him that it was offensive to

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1           **A.     He didn't really specifically say that, that I**  
2           **could recall, but he did say it was inappropriate.**

3           Q.     Okay. And then there's a reference here to  
4           Josue?

5           **A.     Josue, yes.**

6           Q.     Was Josue with Tesla or who was he with?

7           **A.     Tesla.**

8           Q.     Do you remember what Josue's position was?

9           **A.     I don't know. It was more of a -- I don't know**  
10          **if it was a supervisor or a manager of the recycling**  
11          **area.**

12          Q.     And Josue -- he also agreed that the jigaboo  
13          drawing was inappropriate; right?

14          **A.     Yes.**

15          Q.     Did Josue say anything about in terms of what  
16          he thought was the appropriate remedy?

17          **A.     No, he was never really included in that**  
18          **portion of it.**

19          Q.     Okay.

20                   130?

21                   THE REPORTER: Yes.

22                   (Whereupon, Plaintiffs' Exhibit 130 was marked  
23                   for identification and is attached hereto.)

24                   MR. ORGAN: Exhibit 130, for the record, is a  
25                   five-page document Bates-stamped TESLA-4 to 8, and it

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1 starts with the jigaboo drawing -- pictures of the  
2 jigaboo drawing and Mr. Diaz's complaint. Those are the  
3 last four pages of the -- five pages of that, and then  
4 there's an email on the first page.

5 (Document reviewed by the deponent.)

6 THE WITNESS: Yes, sir.

7 MR. ORGAN: Q. And the email on the first page  
8 is an email from you to Veronica Martinez at Chartwell.

9 A. Uh-hum.

10 Q. Was Ms. Martinez -- Veronica Martinez, was she  
11 sort of a contact person that you had in Chartwell?

12 A. Yes, sir.

13 Q. And do you remember what Ms. Martinez's role  
14 was at Chartwell?

15 A. I believe she was the manager of that  
16 particular branch.

17 Q. Did you ever get from Chartwell what their  
18 policy was regarding discrimination?

19 A. I did not, but I'm sure Ms. Garrett had to have  
20 gotten that as part of the contract.

21 Q. So Terri Garrett did further liaison, then,  
22 with Chartwell.

23 Is that right?

24 A. She did all the contracts and such with any of  
25 the agencies that we worked with.

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1           **pretty difficult to reach, to be very honest.**

2           Q.     And then there's a Judy.

3                     Is Judy the same as Ludivina?

4           **A.     I don't know.**

5           Q.     Did you know a Judy Ledesma?

6           **A.     That does not sound familiar.**

7           Q.     Do you remember having any discussions with  
8 Monica De Leon about the jigaboo?

9           **A.     Yeah, I believe, like I said, I had alerted her  
10 to it and made sure I provided her copies, if I'm not  
11 mistaken, of the photos.**

12          Q.     Do you remember an actual conversation that you  
13 ended up having with her?

14          **A.     I really don't. Monica was really very  
15 difficult to reach.**

16          Q.     Okay.

17                     This is 132.

18                     (Whereupon, Plaintiffs' Exhibit 132 was marked  
19 for identification and is attached hereto.)

20           MR. ORGAN: Q. Exhibit 132, for the record, is  
21 a multiple-page document Bates-stamped 7 -- TESLA-730 to  
22 737. I guess it's an eight-page document. It includes  
23 some handwritten statements.

24                     (Document reviewed by the deponent.)

25           MR. ORGAN: Q. And I'm wondering, do you -- do

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1 you remember if you ever saw the handwritten statements  
2 that are -- were allegedly attached to Ms. Delgado's  
3 email?

4 A. No, I don't believe so. Let me see. No, I  
5 don't recall seeing these.

6 Q. Okay.

7 A. I may have, but I don't recall.

8 Q. And, then -- the only reason I ask is because  
9 if you look at the first page of Exhibit 132, there's an  
10 email from you to Victor, Josue, Jeff Lalich, and  
11 Terri Garrett talking about "alleged victim statement."

12 Do you see that at the top?

13 A. Yes, I do.

14 Q. And PDF, suggesting that the attachments were  
15 included by you to them.

16 A. And it could have been. I just don't recall  
17 these attachments, to be really honest.

18 Q. Okay.

19 A. I probably -- if I did send them, I probably  
20 did, just making sure that I kept everybody in the loop.

21 Q. But in terms of what you did, the statements  
22 themselves were not something that you took from the  
23 employees --

24 A. No.

25 Q. -- is that correct?



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1           **A.       No, these were from the Chartwell, yeah.**

2           **Q.       Okay.**

3           **A.       Yeah, these are the statements that they give**  
4           **to Chartwell to give.**

5           Q.       Okay.

6           **A.       Yes.**

7           Q.       And, again, in terms of who might have been  
8           doing the investigation for Chartwell, do you remember  
9           who that was?

10          **A.       It was their HR team.**

11          Q.       Okay. Do you remember who was on Chartwell's  
12          HR team?

13          **A.       I did not really communicate with them. I only**  
14          **communicated with Veronica.**

15          Q.       Now, if you look at the email from  
16          Mr. Delgado [sic] to Veronica Martinez, it states that  
17          Mr. Diaz was concerned about his safety and feeling  
18          uncomfortable with working with Mr. Martinez.

19                 That was something that did come up during your  
20          investigation into these incidents, correct, that  
21          Mr. Diaz was concerned about working with Mr. Martinez;  
22          right?

23                 MR. ARANEDA: Objection. Vague. It lacks  
24          foundation.

25                 THE WITNESS: Only via email.

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1       **his return.**

2           Q.     Whatever that Wednesday was?

3           **A.     Yes, sir.**

4           Q.     And, then, did Victor ever report back to you  
5     that, in fact, he had talked to Mr. Martinez?

6           **A.     Yeah, I believe he did tell me he had spoke to**  
7     **Mr. Martinez. I actually called Chartwell and made sure**  
8     **they knew that Ramon was to report to Victor first.**

9           Q.     Okay.

10           This will be 134.

11           (Whereupon, Plaintiffs' Exhibit 134 was marked  
12           for identification and is attached hereto.)

13           MR. ORGAN: Are there enough of those?

14           MS. STEVENS: Yes.

15           MR. ORGAN: Okay.

16           Exhibit 134, for the record, is a one-page  
17     document Bates-stamped TESLA-317, and this is  
18     referencing -- this is from March of 2016, something  
19     about a situation involving Owen Diaz and Troy Dennis.

20           (Document reviewed by the deponent.)

21           MR. ORGAN: Q. Do you know what that was  
22     about?

23           **A.     I believe, again, it was they got into a verbal**  
24     **altercation.**

25           Q.     And it says here that you were looking for some

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1       good replacements.   That's your email to Mr. Romero.

2               Do you see that?

3       **A.     Yes.   They had actually asked me to start**  
4       **looking just in case things didn't work out, yes.**

5       **Q.     And were those -- were they looking for -- the**  
6       **"they" being Ed Romero and Victor Quintero; right?**

7       **A.     Yes.**

8       Q.     So Ed Romero and Victor Quintero were looking  
9       for replacements for both Owen Diaz and Troy Dennis or  
10      just Owen Diaz?

11      **A.     I believe it was for both.**

12      Q.     Okay.

13      **A.     I think they had -- like I said, they had a**  
14      **verbal altercation in the middle of the factory in front**  
15      **of a lot of people.**

16      Q.     Okay.

17      **A.     I believe -- I can't remember exactly the**  
18      **incident, but it was something to that effect.**

19      Q.     Do you remember what it was about?

20      **A.     I do not.**

21      Q.     Okay.

22               This is 135.

23               (Whereupon, Plaintiffs' Exhibit 135 was marked  
24               for identification and is attached hereto.)

25               (Document reviewed by the deponent.)

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1 MR. ORGAN: Exhibit 135, for the record, is a  
2 one-page document Bates-stamped TESLA-319.

3 Q. This is something about a failure to bring  
4 safety shoes on March 3rd?

5 A. Yes. We've had a -- they had a few issues  
6 where if you're an elevator operator dealing with  
7 forklifts, you had to have on the steel-toed shoes. And  
8 we'd have a few employees that would show up without  
9 those shoes on, and in a lot of cases, we had to send  
10 them home.

11 Q. In this particular case, do you know if  
12 Mr. Diaz got sent home?

13 A. I don't recall because he was working grave and  
14 I probably was asleep at the time, to be honest.

15 Q. Fair enough.

16 Okay. Let's go to the next one.

17 (Whereupon, Plaintiffs' Exhibit 136 was marked  
18 for identification and is attached hereto.)

19 (Document reviewed by the deponent.)

20 THE WITNESS: Oh, yeah. Okay. I do remember a  
21 little more about this.

22 MR. ORGAN: Q. Tell me what else you remember  
23 about -- so 136, for the record, is a one-page document  
24 Bates-stamped TESLA-320. It's an email from March 4th.

25 A. Uh-hum.

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1 Q. And this is something about some PPE gear?

2 A. Personal protective equipment.

3 Q. Okay.

4 A. Yeah, I believe the -- we had a safety  
5 individual, Mr. Tyrone Hopper -- Hoper -- Hopper, and  
6 part of his task was to go around and ensure everybody  
7 had on the proper goggles, safety shoes, vests, things  
8 of that nature.

9 And I think he had approached Mr. Diaz because  
10 he didn't have a vest on, and then that's when he  
11 discovered he didn't have his shoes, either.

12 Q. Okay.

13 A. And Mr. Diaz got confrontational with him as  
14 the safety person. So they were concerned, if I  
15 remember.

16 Q. This doesn't mention confrontational.

17 How do you --

18 A. Yeah, I think they -- because I remember  
19 Mr. Hopper was pretty upset about it because he said,  
20 "Look. I'm just trying to make sure you go home safe.  
21 You arrive safe, go home safe."

22 And I guess there was an argument that ensued  
23 with something to the effect of why are you worrying  
24 about my shoes and not worrying about that guy's shoes,  
25 because that guy is not part of our team type of deal.

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1 Q. Right.

2 Did it seem to you that after the jigaboo -- I  
3 mean, it just seems from the emails that after the  
4 jigaboo incident in January, that there seemed to be  
5 more incidents of Mr. Diaz having verbal altercations  
6 with coworkers.

7 MR. ARANEDA: Objection. Vague.

8 THE WITNESS: No, I would not say that, sir,  
9 because it was kind of continuous, to be very honest.  
10 It was -- Owen was known as the kind of difficult  
11 elevator operator at the plant. That was just kind of  
12 how people -- they didn't want to deal with him in a lot  
13 of ways.

14 MR. ORGAN: Okay.

15 THE WITNESS: And I don't know how else to put  
16 it, but that just was the feedback that I got.

17 MR. ORGAN: Okay.

18 THE WITNESS: He wasn't difficult with me,  
19 per se, but, like I said, I only dealt with the men  
20 there.

21 MR. ORGAN: Q. So in terms of your dealings  
22 and Owen Diaz, you didn't have difficulty with him  
23 personally.

24 Is that correct?

25 A. On most occasions, no. I mean, I -- we did

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1       having him terminated; correct?

2           **A.     I can't recall, but there were -- like I said,**  
3       **there were a lot of complaints that came in with regards**  
4       **to him.**

5           **Q.     I understand that there were complaints.**

6           **A.     Yeah.**

7           **Q.     My question is a little different, though, a**  
8       **little narrower, and that is: Did anyone tell you prior**  
9       **to March of 2016 that they thought that Owen Diaz should**  
10       **be terminated?**

11          **A.     Yes.**

12          **Q.     Who?**

13          **A.     Ed Romero.**

14          **Q.     When did Ed tell you that he thought Mr. Diaz**  
15       **should be terminated?**

16          **A.     It was on several occasions. Like I said, he**  
17       **would hear about the stuff sometimes before me.**

18          **Q.     Okay.**

19          **A.     And Ed, I think as his thing, he would always**  
20       **say to me, like, "Wayne, I like the guy, but he's really**  
21       **causing a lot of problems." That would be his comment.**

22          **Q.     Okay. Did he say what was causing the**  
23       **problems?**

24          **A.     Attitude.**

25          **Q.     Attitude.**

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1           A.     He was very abrasive towards other staff.

2           Q.     Was Owen Diaz abrasive with you?

3           A.     On one occasion, but not -- like I said, after  
4 I kind of let him know I'm here to help you, he kind of  
5 calmed down, but initially, yes.

6           Q.     When did that one occasion occur where Mr. Diaz  
7 was abrasive with you or loud? I think you said he was  
8 loud.

9                     Is that right?

10          A.     Yeah.

11                    I can't remember the exact date, to be very  
12 honest.

13          Q.     Was it toward the end of Owen's tenure there or  
14 toward the beginning or in the middle?

15          A.     Probably towards the beginning more. Yeah, it  
16 was probably more towards the beginning, I think.

17          Q.     So once you had that conversation with Mr. Diaz  
18 at the beginning about how you were there to help him,  
19 you had no other issues with him throughout the entire  
20 time that Mr. Diaz worked at Tesla; right?

21          A.     I wouldn't say that. I just -- we had a better  
22 understanding of him not yelling at me.

23          Q.     Okay.

24          A.     I guess is the best way to put it.

25          Q.     I see.



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1 This is 140?

2 THE REPORTER: 140.

3 (Whereupon, Plaintiffs' Exhibit 140 was marked  
4 for identification and is attached hereto.)

5 (Document reviewed by the deponent.)

6 THE WITNESS: My daughter...

7 MR. ORGAN: Your daughter is calling you?

8 THE WITNESS: Yeah.

9 MR. ORGAN: Do you need to get it?

10 THE WITNESS: I'll call her back in just a  
11 minute.

12 MR. ORGAN: Okay.

13 Well, somehow I only have two copies of this  
14 one, too. Sorry about that.

15 Exhibit 140, for the record, is a two-page  
16 document Bates-stamped CITISTAFF-00009-10.

17 Q. And it's just a -- there are two emails from  
18 you --

19 A. Uh-hum.

20 Q. -- to Ms. De Leon and then from Monica De Leon  
21 back to you regarding the termination of Mr. Diaz's  
22 contract. It's dated March 18th.

23 Do you see that?

24 A. Yes, sir.

25 Q. And then it says:

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1 "Unfortunately, we will have to term the  
2 assignment of Owen Diaz. We have been trying  
3 to work with him on some attendance and  
4 performance issues, but we have been  
5 unsuccessful."

6 And then he sent a doctor's note, but no  
7 signature, and then the manager would just like to get  
8 another candidate --

9 A. Yes.

10 Q. -- to backfill.

11 So --

12 A. That's more or less letting Citistaff know they  
13 could reassign Owen to somewhere else.

14 Q. Do you remember a conversation, then, that you  
15 had with either Monica or anybody else relative to this  
16 issue about the doctor's note and the decision to  
17 terminate him?

18 A. No, I believe I just forwarded the doctor's  
19 notice to Monica. I don't think it had a signature or  
20 anything on it, a date or anything.

21 Q. Okay.

22 A. So it didn't -- it wasn't really a verifiable  
23 note, I guess you could say.

24 Q. I see.

25 And you need that.

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1 journal should have any kind of concerns?

2 **A. Various notes would be placed there, yes.**

3 Q. Like if there was a performance concern, it  
4 should go in the requisition journal.

5 Is that right?

6 MR. ARANEDA: Objection.

7 THE WITNESS: Yes.

8 MR. ARANEDA: It calls for speculation.

9 THE WITNESS: Yes, that would go in there, as  
10 well as if someone was doing, you know, above and  
11 beyond, things of that nature.

12 MR. ORGAN: I see, okay.

13 And Exhibit 142.

14 (Whereupon, Plaintiffs' Exhibit 142 was marked  
15 for identification and is attached hereto.)

16 MR. ORGAN: For the record, Exhibit 142 is a  
17 two-page document Bates-stamped TESLA-752-753. They're  
18 emails from February 26 of 2016.

19 (Document reviewed by the deponent.)

20 THE WITNESS: That's the lady,  
21 Joyce Delagrande, yeah.

22 MR. ORGAN: Okay.

23 THE WITNESS: Yeah. I knew it was something  
24 where he got into it with somebody. I couldn't recall  
25 what it was.

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**EXHIBITS TO DEPOSITION OF WAYNE JACKSON**  
**REDACTED – CONDITIONALLY FILED UNDER SEAL**

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF MARIN )

I, PATRICIA ROSINSKI, hereby certify:

That I am a Certified Shorthand Reporter in the  
State of California.

That prior to being examined, WAYNE JACKSON,  
the witness named in the foregoing deposition, was by me  
duly sworn to testify the truth, the whole truth, and  
nothing but the truth;

That said deposition was taken pursuant to  
Notice of Deposition and agreement between the parties  
at the time and place therein set forth and was taken  
down by me in stenotype and thereafter transcribed by me  
by computer and that the deposition is a true record of  
the testimony given by the witness.

I further certify that I am neither counsel for  
either, nor related in any way to any party to said  
action, nor otherwise interested in the result or  
outcome thereof.

Pursuant to Federal Rules of Civil Procedure,  
Rule 30(e), review of the transcript was not requested  
before the completion of the deposition.

  
PATRICIA ROSINSKI, CSR No. 4555

May 28, 2019

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## EXHIBIT D

~~Owen Diaz-Confidential~~

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

REPORTER CERTIFIED  
TRANSCRIPT

DEMETRIC DI-AZ, OWEN DIAZ and  
LAMAR PATTERSON, an individual,

Plaintiffs,

Vs.

Case No. 3:17-cv-06748-WHO

TESLA, INC. DBA TESLA MOTORS,  
INC.; CitiStaff SOLUTIONS, INC.;  
WEST VALLEY STAFFING GROUP;  
CHARTWELL STAFFING SERVICES, INC.  
and DOES 1-10, inclusive,

Defendants.

**CONFIDENTIAL**

CONFIDENTIAL

VIDEOTAPED DEPOSITION OF

OWEN DIAZ

SAN FRANCISCO, CALIFORNIA

TUESDAY, MAY 22, 2018

Reported By:  
Candy Newland  
CSR No. 14256  
File No. 18-25470



10:12:56 1 Madame Court Reporter, please swear the witness  
2 in.

3 --oOo--

4 OWEN DIAZ,  
5 having first declared under penalty of perjury to tell  
6 the truth, was examined and testified as follows:

7 --oOo--

8 EXAMINATION

9 BY MS. ANTONUCCI:

10:13:12 10 Q. My name is Barbara Antonucci. I represent  
10:13:14 11 defendant Tesla, Inc., dba Tesla Motors, Inc. For  
10:13:19 12 purposes of this deposition, I'll refer to my client as  
10:13:23 13 Tesla.

10:13:23 14 Do you understand that?

10:13:23 15 A. Yes, ma'am.

10:13:26 16 Q. I also represent CitiStaff Solutions, Inc., and  
10:13:26 17 for purposes of this depo, I'll refer to them as  
10:13:26 18 CitiStaff.

10:13:32 19 Do you understand that?

10:13:33 20 A. Yes, ma'am.

10:13:33 21 Q. Could you please state your full name for the  
10:13:36 22 record.

10:13:36 23 A. My full name is Owen Orappio Diaz, Jr.

10:13:36 24 (Reporter Clarification.)

10:13:36 25 ///



10:36:40 1 same thing I had to go through.

10:37:09 2 Q. Have you ever declared bankruptcy?

10:37:13 3 A. No, ma'am.

10:37:39 4 Q. Have you ever had any judgments against you?

10:37:42 5 A. No, ma'am.

10:37:43 6 MR. ORGAN: Objection to the extent it calls for  
10:38:10 7 a legal conclusion.

10:38:10 8 (EXHIBIT 1 was marked for identification.)

10:38:10 9 BY MS. ANTONUCCI:

10:38:15 10 Q. Exhibit 1 is a document entitled "CitiStaff  
10:38:18 11 Solutions, Inc., Application," and it's Bates-stamped at  
10:38:22 12 the bottom 34 to 35.

10:38:24 13 Do you see that?

10:38:29 14 A. Yes, ma'am.

10:38:30 15 Q. Is this a copy of the application you submitted  
10:38:33 16 to CitiStaff?

10:38:36 17 A. It appears so.

10:38:39 18 Q. Is that your signature on the page Bates-stamped  
10:38:45 19 35 at the bottom?

10:38:47 20 A. It looks like my signature, ma'am.

10:38:53 21 Q. Is there anything that you see that's inaccurate  
10:38:57 22 about this application?

10:38:58 23 MR. ORGAN: Objection. Compound.

10:39:35 24 THE WITNESS: Looks like the date of my  
10:39:53 25 franchise -- the end. I could have made a typo there.

10:54:00	1	MR. ORGAN: Objection. Privacy. Financial
10:54:02	2	privacy. Don't answer that.
10:54:06	3	BY MS. ANTONUCCI:
10:54:12	4	Q. You also worked as a residential counselor at
10:54:20	5	the Hamilton Family Center; is that correct?
10:54:22	6	A. Yes, ma'am.
10:54:23	7	Q. And that was from January 2013 to February 2014?
10:54:31	8	A. Sounds about accurate.
10:54:33	9	Q. And what was the reason you left that job?
10:54:36	10	A. Funding.
10:54:37	11	Q. What does that mean?
10:54:39	12	A. It was funded by the government. Certain
10:54:44	13	positions was eliminated due to funding.
10:54:48	14	Q. And was your position one that was eliminated?
10:54:52	15	A. Yes.
10:54:55	16	Q. So you submitted this application, marked as
10:55:01	17	Exhibit 1, on June 2, 2015; is that right?
10:55:14	18	A. It looked like my -- I wrote the date.
10:55:17	19	Q. So that's correct?
10:55:19	20	A. Yes.
10:55:20	21	Q. And at that time, had you had any other work
10:55:25	22	experience besides Hamilton Family Center and Cover-All?
10:55:31	23	MR. ORGAN: Objection. Argumentative.
10:55:34	24	THE WITNESS: Yes.
10:55:36	25	///

10:59:31 1 A. I don't know.

10:59:33 2 Q. How long did you work for CSC?

10:59:37 3 A. About four months.

10:59:53 4 Q. And what was your role at CSC?

10:59:57 5 A. I worked the 49er games.

11:00:02 6 Q. Were you a security officer?

11:00:04 7 A. I stood on the field. Yes.

11:00:09 8 Q. Can you give me the dates of your employment at

11:00:17 9 CSC?

11:00:27 10 A. I believe it's about 2013 to 2014.

11:00:32 11 Q. And why did you leave CSC?

11:00:36 12 A. Football season was over.

11:00:45 13 Q. Any other jobs prior to applying for CitiStaff?

11:00:53 14 MR. ORGAN: Objection. Vague and ambiguous.

11:00:59 15 THE WITNESS: Not that I recall at this time.

11:01:02 16 BY MS. ANTONUCCI:

11:01:23 17 Q. The woman you met at the CitiStaff Newark

11:01:27 18 office, did you ever see her again after you met her on

11:01:32 19 that occasion?

11:01:37 20 A. Maybe once or twice.

11:01:44 21 Q. Where did you see her after the first occasion

11:01:47 22 you met her?

11:01:48 23 A. The same office.

11:01:55 24 Q. Okay. So the second time you saw her, what did

11:01:59 25 you discuss with her?

11:02:00	1	A.	My paycheck.
11:02:01	2	Q.	What did you discuss about your paycheck?
11:02:04	3	A.	Picking up my paycheck.
11:02:07	4	Q.	And when was that?
11:02:10	5	A.	Probably two weeks after I started.
11:02:18	6	Q.	Did you discuss anything else with her during
11:02:25	7		that time that you visited the Newark office?
11:02:30	8	A.	No.
11:02:39	9	Q.	Was there a third time that you met with her?
11:02:43	10	A.	Picking up my paycheck.
11:02:48	11	Q.	So you met with her a third time where you
11:02:51	12		picked up your paycheck from the Newark office?
11:02:55	13	A.	Yes, ma'am.
11:02:56	14	Q.	And when was that?
11:02:58	15	A.	A week later.
11:03:01	16	Q.	And what did you discuss with her a week later
11:03:04	17		when you picked up your paycheck?
11:03:06	18	A.	That I would be picking up my paychecks inside
11:03:11	19		the office from Tesla from now on.
11:03:11	20		MS. ANTONUCCI: Can you read that back.
11:03:11	21		(Whereupon, the last answer was read back.)
11:03:15	22		BY MS. ANTONUCCI:
11:03:15	23	Q.	And why did you let her know you'd be picking up
11:03:31	24		your paychecks inside the office from Tesla from now on?
11:03:33	25	A.	I didn't let her know that. She let me know

01:51:43	1	A.	Him not returning to work on time.
01:51:48	2	Q.	Was anybody else present during this argument?
01:51:56	3	A.	Yes.
01:51:57	4	Q.	Who?
01:51:57	5	A.	Staff that was on the floor.
01:52:06	6	Q.	Do you know their names?
01:52:08	7	A.	No.
01:52:10	8	Q.	At some point you were promoted to elevator
01:52:35	9		lead; is that right?
01:52:36	10	A.	Yes.
01:52:37	11	Q.	Do you know when that was?
01:52:40	12	A.	About a month after I started.
01:52:53	13	Q.	And how did your responsibilities change as an
01:53:02	14		elevator lead?
01:53:09	15	A.	Only difference was is now I was supervising
01:53:13	16		three to four guys.
01:53:20	17	Q.	And who were you supervising as an elevator
01:53:23	18		lead?
01:53:25	19	A.	One was Rothaj Foster, Lamar Patterson, and I
01:53:38	20		can't remember the other guys' names.
01:53:41	21	Q.	How many other people were you supervising
01:53:44	22		besides Rothaj Foster and Lamar Patterson?
01:54:02	23	A.	In total or at one time?
01:54:05	24	Q.	In total.
01:54:06	25	A.	It was a high turnover job, so I would say about

01:56:10 1 corporate policy for Tesla?

01:56:12 2 MR. ORGAN: Objection. Calls for speculation.

01:56:14 3 THE WITNESS: I don't know.

01:57:25 4 (EXHIBIT 3 was marked for identification.)

01:57:25 5 BY MS. ANTONUCCI:

01:57:30 6 Q. Exhibit 3 is a document identified at the top as

01:57:34 7 "CitiStaff Solutions Inc., Assignment

01:57:37 8 Abandonment/Walk-Off" policy, and it's Bates-stamped at

01:57:37 9 the bottom as CitiStaff 39.

01:57:41 10 Do you recognize this document?

01:57:51 11 A. I recognize my signature, but I don't remember  
01:57:54 12 the document.

01:57:55 13 Q. But that is your signature at the bottom?

01:57:57 14 A. Yes.

01:57:57 15 Q. So you signed this on June 2, 2015; correct?

01:58:01 16 A. Yes.

01:58:01 17 Q. And did you review it and read it before you  
01:58:05 18 signed it?

01:58:07 19 MR. ORGAN: Objection. Compound.

01:58:13 20 THE WITNESS: If I signed it at that time, I  
01:58:15 21 reviewed it.

01:58:15 22 BY MS. ANTONUCCI:

01:58:25 23 Q. Do you remember asking any questions about this  
01:58:28 24 policy?

01:58:30 25 A. No.

03:21:00	1	A.	"Get some rest" or either "Get some sleep," and
03:21:08	2		he'll talk to the other guy.
03:21:14	3	Q.	Have you given that e-mail to your attorney?
03:21:18	4	A.	Possibility.
03:21:24	5	Q.	Do you still have that e-mail?
03:21:30	6	A.	Possibility.
03:21:33	7	Q.	And do you know if he ever talked -- if Ed ever
03:21:35	8		talked to the other guy?
03:21:39	9	A.	No, I do not know.
03:21:45	10	Q.	So at this point, was Tom no longer your
03:21:49	11		supervisor?
03:21:50	12	A.	Yes.
03:21:51	13	Q.	And Ed was now your supervisor?
03:21:53	14	A.	Yes.
03:21:53	15	Q.	And did you get along with Ed?
03:21:56	16	A.	I thought so.
03:22:01	17	Q.	Do you have any reason to think that you didn't
03:22:03	18		get along with him?
03:22:05	19	A.	No.
03:22:40	20	Q.	Did you ever talk to Wayne Jackson about the
03:22:43	21		incident with Ramon in the elevator?
03:22:50	22	A.	I can't recall.
03:22:51	23	Q.	Do you know who Wayne Jackson is?
03:22:58	24	A.	Yes.
03:22:59	25	Q.	Who's Wayne Jackson?

03:23:05	1	A.	My understanding is that he was a liaison.
03:23:13	2	Q.	Liaison with who?
03:23:16	3	A.	Tesla and nextSource, I believe.
03:23:23	4	Q.	Did you understand that you could complain to
03:23:32	5		Wayne Jackson if you needed to about any concerns you
03:23:35	6		had in the workplace?
03:23:36	7	MR. ORGAN:	Objection. Vague and ambiguous.
03:23:40	8	THE WITNESS:	If he was around.
03:23:40	9	BY MS. ANTONUCCI:	
03:23:43	10	Q.	And he was on-site?
03:23:46	11	A.	Rarely.
03:23:50	12	Q.	How often would you say he was on-site?
03:23:58	13	A.	I don't know.
03:24:01	14	Q.	How many times a week?
03:24:03	15	A.	I don't know.
03:24:29	16	Q.	And this incident with Ramon, you know, right
03:24:33	17		outside, inside of the elevator, occurred around
03:24:36	18		October 17, 2015?
03:24:40	19	A.	Yes. That's what the date is on the -- on the
03:24:44	20		e-mail.
03:24:45	21	Q.	And was that around 4:45 a.m.?
03:24:49	22	A.	Yes.
03:24:51	23	Q.	So you sent this e-mail right after it happened?
03:24:55	24	A.	I sent the e-mail out at 6:08 a.m., ma'am.
03:25:02	25	Q.	So about an hour and a half after it happened?



03:42:13 1 Mr. Foster reported -- Mr. Foster reportedly made  
03:42:19 2 threats against Mr. Diaz and his car. As a result,  
03:42:21 3 Mr. Romero advised me that he was suspending Mr. Foster  
03:42:25 4 and asked for security assistance.

03:42:29 5 I followed him to Mr. Foster's work area, stood  
03:42:30 6 by while he was informed, and his badge was taken by  
03:42:34 7 Mr. Romero. We then escorted Mr. Foster out of the  
03:42:38 8 building at the second Number 2 door, and I followed him  
03:42:41 9 until he got into his vehicle, which was parked in a  
03:42:45 10 handicapped space in front of Door 1. I had a vehicle  
03:42:48 11 patrol officer, Brian Deltoro, follow him as he drove  
03:42:53 12 off the property.

03:42:54 13 Mr. Foster's badge was turned in to the control  
03:42:57 14 center, and I was informed -- and I informed Mr. Romero  
03:43:01 15 Mr. Foster left the property.

03:43:03 16 Nothing further to report."

03:43:05 17 Q. Okay. So is that correct that you got into a  
03:43:09 18 verbal dispute with Mr. Foster on or about 11/5/2015?

03:43:15 19 A. Yes.

03:43:17 20 Q. And what was said during that verbal dispute?

03:43:23 21 A. He said he was going to shoot me.

03:43:25 22 Q. And what did you say?

03:43:27 23 A. I contacted Mr. Romero.

03:43:33 24 Q. Did you say anything to Mr. Foster?

03:43:37 25 A. No. I tried to get away from him as fast as

03:43:41 1 possible.

03:43:41 2 Q. Did you feel threatened by Mr. Foster?

03:43:44 3 A. Yes.

03:43:49 4 Q. It says here that "Mr. Foster reportedly made  
03:43:53 5 threats against Mr. Diaz and his car."

03:43:56 6 What did Mr. Foster say about your car?

03:43:59 7 A. That he -- I believe he was going to vandalize  
03:44:07 8 it and wait for me to come outside so he could do  
03:44:10 9 further harm to myself or try to do harm to myself.

03:44:14 10 Q. Why did he threaten to vandalize your car and  
03:44:19 11 shoot you?

03:44:20 12 MR. ORGAN: Objection. Calls for speculation.

03:44:22 13 THE WITNESS: I believe that it was from me  
03:44:32 14 reporting to Ed Romero that he wasn't coming back, and  
03:44:40 15 Ed Romero asked him why he wasn't coming back from his  
03:44:45 16 breaks on time.

03:44:45 17 BY MS. ANTONUCCI:

03:44:57 18 Q. And does this refresh your memory that it was  
03:44:59 19 the 11/5 warning -- 11/5/2015 warning that you gave to  
03:45:05 20 Mr. Foster that prompted him to threaten to shoot you?

03:45:32 21 A. Yes. Seemed like it was on the same day, ma'am.

03:45:36 22 Q. And Mr. Romero immediately suspended Mr. Foster  
03:45:40 23 after you brought this to his attention; right?

03:45:43 24 A. Yes.

03:45:44 25 Q. And he was escorted from the building by

03:49:25 1 remember their names.

03:49:26 2 Q. Had Robert by this point called you the N-word?

03:49:30 3 A. Yes.

03:49:39 4 Q. And Lamar Patterson is African-American;

03:49:42 5 correct?

03:49:42 6 A. Yes.

03:50:01 7 (EXHIBIT 14 was marked for identification.)

03:50:01 8 BY MS. ANTONUCCI:

03:50:19 9 Q. Exhibit 14 is an e-mail from you to Ed Romero

03:50:30 10 where -- Bates-stamped Tesla 5 to Tesla 8.

03:50:39 11 Do you see that?

03:50:39 12 A. Yes.

03:50:42 13 Q. Did you send this e-mail?

03:50:45 14 A. Yes.

03:50:45 15 Q. The e-mail is dated January 22, 2016. Did you

03:50:51 16 send it on that date?

03:50:53 17 A. Yes.

03:51:00 18 Q. Did anybody help you write this?

03:51:03 19 A. No.

03:51:03 20 Q. Had you had -- had you consulted an attorney

03:51:08 21 prior to writing this?

03:51:10 22 A. No.

03:51:13 23 Q. Did you take the photographs on Tesla 6 and 7 of

03:51:20 24 this document, Exhibit 14?

03:51:22 25 A. Yes.

03:58:33 1 Q. When you saw this cartoon, you took a picture of  
03:58:37 2 it; correct?  
03:58:37 3 A. Yes.  
03:58:38 4 Q. Do you know that pictures are not permitted in  
03:58:42 5 the factory?  
03:58:46 6 A. Possibility.  
03:58:48 7 Q. "Yes," you know that?  
03:58:53 8 A. I believe it was certain parts of the floor, but  
03:59:01 9 yes.  
03:59:01 10 Q. Was it this part of the floor?  
03:59:04 11 A. I don't know.  
03:59:07 12 Q. Okay. With Mr. Romero -- at the time that you  
03:59:16 13 took a photograph of this cartoon, Mr. Romero was your  
03:59:23 14 supervisor; right?  
03:59:24 15 MR. ORGAN: Objection. Argumentative.  
03:59:26 16 THE WITNESS: Yes.  
03:59:26 17 BY MS. ANTONUCCI:  
03:59:29 18 Q. So why did you call Michael? And by "Michael,"  
03:59:38 19 you mean Michael Wheeler; correct?  
03:59:38 20 A. Yes.  
03:59:38 21 Q. So why did you call Michael and not Ed?  
03:59:44 22 A. Chain of command.  
03:59:46 23 Q. What does that mean?  
03:59:48 24 A. Because the recycling came from a different  
03:59:54 25 area.

03:59:56	1	Q.	So did Ramon report to Michael Wheeler?
04:00:00	2	A.	I don't know.
04:00:03	3	Q.	Did Michael Wheeler work within recycling?
04:00:08	4	A.	Yes.
04:00:09	5	Q.	So he worked with Ramon in recycling?
04:00:13	6	A.	Possibility.
04:00:15	7	Q.	So by contacting Michael Wheeler, did you mean
04:00:31	8		to report it to the recycling group?
04:00:35	9	A.	Yes.
04:00:39	10	Q.	And when Michael arrived, did you speak with him
04:00:54	11		about the cartoon?
04:00:55	12	A.	Briefly.
04:00:56	13	Q.	What did you say?
04:00:58	14	A.	Someone from -- from the recycling team that he
04:01:03	15		was with had sent this cardboard bale with this racist
04:01:10	16		effigy over to the elevator.
04:01:13	17	Q.	Michael said that?
04:01:14	18	A.	No. You asked me what did I say to Michael.
04:01:19	19	Q.	Okay. What did Michael say?
04:01:21	20	A.	He wanted to see it.
04:01:22	21	Q.	And so he came down with you to look at it?
04:01:26	22	A.	No.
04:01:27	23	Q.	Okay. How did he get down to the cardboard
04:01:31	24		bale?
04:01:31	25	A.	He went up with me.

04:01:33	1	Q.	He went up with you. Okay. And when you went
04:01:37	2		upstairs, did -- was Israel with you as well?
04:01:41	3	A.	He came with Michael.
04:01:43	4	Q.	Is Michael African-American?
04:01:45	5	A.	Yes.
04:01:45	6	Q.	Is Israel African-American?
04:01:47	7	A.	No.
04:01:49	8	Q.	What nationality is Israel?
04:01:53	9	A.	I don't know.
04:01:54	10	Q.	What race?
04:01:56	11	A.	I don't know.
04:01:58	12	Q.	Did you -- did Israel say anything when he saw
04:02:03	13		the cartoon?
04:02:05	14	A.	No.
04:02:05	15	Q.	Did Michael say anything when he saw the
04:02:08	16		cartoon?
04:02:09	17	A.	Yes.
04:02:10	18	Q.	What did Michael say?
04:02:12	19	A.	"Who could have did this?"
04:02:15	20	Q.	And both Michael and Israel took pictures of the
04:02:21	21		cartoon?
04:02:23	22	A.	Yes.
04:02:24	23	Q.	Did Michael say anything else?
04:02:28	24	A.	I had to stop to talk to the elevator staff and
04:02:31	25		him, and Israel went over to the upstairs recycling

04:02:36	1	room.
04:02:37	2	Q. You talked to the elevator staff?
04:02:40	3	A. Yes.
04:02:40	4	Q. Who did you talk to?
04:02:42	5	A. Lamar Patterson.
04:02:48	6	Q. Did Lamar Patterson see this picture?
04:02:51	7	A. Yes.
04:02:52	8	Q. Did you show it to him?
04:02:53	9	A. No.
04:02:55	10	Q. How did he see it?
04:03:00	11	A. He was pulling a pallet rider up under the
04:03:08	12	pallet.
04:03:10	13	Q. Did you witness anyone else viewing this
04:03:13	14	cartoon?
04:03:15	15	A. Yes.
04:03:16	16	Q. Who else did you see viewing the cartoon?
04:03:21	17	A. Other Tesla employees.
04:03:23	18	Q. Which ones?
04:03:28	19	A. I don't know their names.
04:03:30	20	Q. It says here, "Ramon Martinez said he had drew
04:04:19	21	the picture and he was just playing."
04:04:21	22	Do you see that?
04:04:22	23	A. Yes.
04:04:22	24	Q. How do you know that Ramon Martinez said that?
04:04:26	25	A. He said it. He said it verbally.

04:04:30 1 Q. Did you hear him say that?

04:04:31 2 A. Yes. But that's not what he said.

04:04:36 3 Q. He didn't say he drew the picture?

04:04:38 4 A. He said he drew the picture.

04:04:41 5 Q. Did -- he didn't say he was just playing?

04:04:44 6 A. It was actually -- I said he was playing, but

04:04:52 7 actually it was, "You people can't take a joke."

04:04:57 8 Q. And he said that to you?

04:04:59 9 A. Yes.

04:05:00 10 Q. And where were you when he said that?

04:05:03 11 A. Standing where the -- standing in front of the

04:05:08 12 elevator.

04:05:14 13 Q. And did anybody witness him say, "You people

04:05:17 14 can't take the joke"?

04:05:18 15 A. Israel and Michael Wheeler.

04:05:22 16 Q. How did Ramon Martinez get to -- up to where the

04:05:28 17 cardboard bale was with the cartoon?

04:05:33 18 A. I don't know.

04:05:34 19 Q. Was he just passing by, or did someone call him

04:05:39 20 there?

04:05:41 21 A. You mean, how did he get back to it the second

04:05:46 22 time, or...

04:05:46 23 Q. Yeah. After you saw the picture, you walked up

04:05:50 24 there with Michael and Israel; right?

04:05:54 25 A. Uh-huh.



04:05:54 1 Q. Then Ramon Martinez comes -- right? -- at some  
04:05:58 2 point?

04:05:58 3 A. Michel and Israel went over to the recycling  
04:06:02 4 center that's upstairs, and they came back with Ramon  
04:06:05 5 Martinez.

04:06:05 6 Q. Okay. Did they tell you what they talked about  
04:06:08 7 up in the recycling center when they went to get Ramon?

04:06:12 8 A. No.

04:06:14 9 Q. And they came back with Ramon, and you were  
04:06:18 10 still waiting at cardboard bale?

04:06:21 11 A. Yes.

04:06:21 12 Q. Why were you waiting there? Did they tell you  
04:06:24 13 to wait there?

04:06:25 14 A. No.

04:06:25 15 Q. Why were you waiting there?

04:06:26 16 A. I was dealing with the elevator crew.

04:06:30 17 Q. Okay. Besides Lamar Patterson, did anybody else  
04:06:38 18 in the elevator crew see the cartoon?

04:06:41 19 A. I don't know.

04:06:50 20 Q. Okay. So when they brought Ramon down, did he  
04:06:55 21 admit that he was the one that drew the picture?

04:06:57 22 A. Yes.

04:07:00 23 Q. Did he apologize?

04:07:02 24 A. No.

04:07:06 25 Q. Did he say anything other than, "You people

04:10:35 1 Q. Do you know if Mr. -- if Mr. Martinez was  
04:10:39 2 investigated in response to your e-mail?  
04:10:42 3 A. No.  
04:10:43 4 Q. Do you know if Mr. Martinez was written up in  
04:10:47 5 response to your e-mail?  
04:10:48 6 A. No.  
04:10:49 7 Q. Do you know if Mr. Martinez was suspended in  
04:10:55 8 response to your e-mail?  
04:10:56 9 A. No.  
04:11:02 10 Q. So no one ever communicated to you what happened  
04:11:06 11 to Mr. Martinez in response to this e-mail?  
04:11:09 12 A. You're correct.  
04:11:51 13 (EXHIBIT 15 was marked for identification.)  
04:11:51 14 BY MS. ANTONUCCI:  
04:11:56 15 Q. Exhibit 15 is a series of e-mails Bates-stamped  
04:12:06 16 at the bottom CitiStaff 50 to -- through 55.  
04:12:16 17 I'd like to turn your attention to exhibit -- to  
04:12:23 18 the one marked at -- the e-mail dated January 22, 2016,  
04:12:30 19 time 5:50 p.m., Bates-stamped at the bottom 52.  
04:12:43 20 So this is your e-mail to Ed Romero dated  
04:12:46 21 January 22, 2016, at 8:42 a.m.  
04:12:51 22 Do you see that?  
04:12:51 23 A. Yes.  
04:12:52 24 Q. Okay. And the incident you say "occurred at  
04:12:58 25 9:10 p.m. in elevator 1."

04:13:01 1 Do you see that?

04:13:01 2 A. Yes.

04:13:02 3 Q. On the previous evening?

04:13:06 4 A. Yes.

04:13:06 5 Q. Why did you wait until the next morning to  
04:13:09 6 report it to Mr. Romero?

04:13:15 7 A. The production floor was busy, and I had to  
04:13:19 8 write the e-mail in pieces.

04:13:21 9 Q. Did you say you had to write the e-mail in  
04:13:23 10 pieces?

04:13:24 11 A. Yes.

04:13:24 12 Q. Where did you write the e-mail?

04:13:26 13 A. My iPhone.

04:13:28 14 Q. But where were you geographically when you wrote  
04:13:32 15 it?

04:13:32 16 A. At the warehouse.

04:13:34 17 Q. So you were still at the warehouse at 8:42 a.m.?

04:13:39 18 A. Yes.

04:13:45 19 Q. I thought you said your shift ended at  
04:13:49 20 6:00 a.m.?

04:13:49 21 A. It does.

04:13:50 22 Q. So why were you still at the warehouse at  
04:13:53 23 8:42 a.m.?

04:13:56 24 A. I don't know.

04:13:59 25 Q. Do you remember where in the warehouse you wrote

04:14:02 1 this e-mail?

04:14:05 2 A. Not exactly. No.

04:14:10 3 Q. Where you in the cafe?

04:14:17 4 A. I don't recall.

04:14:22 5 Q. Were you in your car?

04:14:25 6 A. No.

04:14:26 7 Q. Were you outside?

04:14:28 8 A. No.

04:14:30 9 Q. You were inside the factory?

04:14:31 10 A. Yes.

04:14:33 11 Q. Okay. And here Bates-stamped at the bottom 52,

04:14:37 12 you forwarded this e-mail to CitiStaff.

04:14:40 13 Do you see that?

04:14:40 14 A. Yes.

04:14:44 15 Q. Why did you forward it to CitiStaff?

04:14:50 16 A. Because I didn't want the situation to be

04:14:57 17 covered up.

04:14:59 18 Q. And did you forward it to anybody in particular

04:15:08 19 at CitiStaff?

04:15:11 20 A. I don't remember.

04:15:19 21 Q. How did you get this CitiStaff e-mail address?

04:15:25 22 A. I don't remember.

04:15:29 23 Q. And you forwarded it to CitiStaff on Friday,

04:15:37 24 January 22nd at 5:50 p.m.

04:15:40 25 Do you see that?

04:15:40 1 A. Yes.

04:15:41 2 Q. And why did you wait a whole day to forward it

04:15:43 3 to CitiStaff?

04:15:46 4 A. I don't know.

04:15:51 5 Q. Do you know what actions CitiStaff took in

04:15:54 6 response to this complaint?

04:15:56 7 A. No.

04:15:58 8 Q. Did anybody from CitiStaff ever communicate to

04:16:01 9 you what actions were taken in response to this e-mail?

04:16:05 10 A. I don't recall.

04:17:13 11 (EXHIBIT 16 was marked for identification.)

04:17:13 12 BY MS. ANTONUCCI:

04:17:35 13 Q. So Exhibit 16 is a series of e-mails

04:17:39 14 Bates-stamped at the bottom 80 through 84.

04:17:43 15 Do you see that?

04:17:43 16 A. Yes.

04:17:58 17 Q. And they're dated January 22, 2016.

04:18:01 18 Do you see that?

04:18:01 19 A. Yes.

04:18:05 20 Q. In the middle of the page Bates-stamped Tesla

04:18:11 21 80, it says, "Wayne, as we discussed in person, this is

04:18:16 22 very disappointing coming from one of our team

04:18:20 23 supervisors. I agree with the recommendation to suspend

04:18:24 24 and issue a permanent written warning."

04:18:26 25 Do you see that?

04:24:23 1 Q. Did anybody ever communicate to you that  
04:24:26 2 Chartwell took any action in response to this drawing?

04:24:30 3 A. No.

04:25:16 4 MS. ANTONUCCI: We can take a break so he can  
04:25:18 5 change the tape.

04:25:20 6 THE VIDEOGRAPHER: We're going off the record  
04:25:21 7 at 4:24 p.m. This is the end of Media Number 3.

04:25:21 8 (Off the record: 4:25 p.m. to 4:37 p.m.)

04:37:58 9 THE VIDEOGRAPHER: We are back on the record at  
04:38:03 10 4:37 p.m. This is beginning of Media Number 4. Please  
04:38:07 11 continue.

04:38:33 12 (EXHIBIT 19 was marked for identification.)

04:38:33 13 BY MS. ANTONUCCI:

04:38:38 14 Q. Exhibit 19 are e-mails of various dates  
04:38:45 15 Bates-stamped at the bottom CitiStaff 6 to 7. Turning  
04:38:50 16 your attention to page 6, it states -- it's an e-mail  
04:38:58 17 from Vanessa Parks at nextSource to Monica DeLeon at  
04:39:04 18 CitiStaff Solutions, cc to Tesla and Ed Romero.  
04:39:13 19 "Subject: Pay Rate Increase." And it says, "Hi Monica,  
04:39:16 20 please process a pay rate increase to the following  
04:39:23 21 contractors: Owen Diaz, effective 1/25/16; new pay rate  
04:39:27 22 \$18 an hour."

04:39:28 23 So is it correct that you received a pay  
04:39:32 24 increase of up to \$18 an hour on January 28, 2016?

04:39:32 25 A. Yes.

04:39:45	1	Q.	And that was three days after you made your
04:39:52	2		complaint; is that correct?
04:40:10	3	A.	It appears that way.
04:40:14	4	Q.	Do you know Joyce Dela Grande?
04:40:31	5	A.	Not that I can recall.
04:40:35	6	Q.	Did she ever engage in any discriminating or
04:40:42	7		harassing conduct towards you?
04:40:44	8	A.	Possible.
04:40:46	9	Q.	Why do you say it's possible?
04:40:49	10	A.	Until I can see the picture or anything, I
04:40:53	11		wouldn't know who Joyce was.
04:40:57	12	Q.	Do you know Hugo Gulagos?
04:41:01	13	A.	No.
04:41:10	14	Q.	Do you know Robert Hertado?
04:41:14	15	A.	I know a Robert, but I don't know if it's the
04:41:18	16		same person's last name or not. I don't know if it's
04:41:19	17		his last name.
04:41:19	18	Q.	So you're not sure whether the Robert that you
04:41:22	19		referenced earlier today is named Robert Hertado?
04:41:26	20	A.	Yes.
04:41:27	21	Q.	You don't know?
04:41:28	22	A.	I don't know.
04:41:29	23	Q.	Have you ever called Robert a snake?
04:41:46	24	A.	I don't recall.
04:41:53	25	Q.	Did Robert ever complain to his boss about you

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**EXHIBITS TO DEPOSITION OF OWEN DIAZ, Vol. I**  
**REDACTED – CONDITIONALLY FILED UNDER SEAL**



1 I, CANDY NEWLAND, CSR No. 14256, certify that the  
2 foregoing proceedings were taken before me at the time  
3 and place herein set forth, at which time the witness  
4 was duly sworn, and that the transcript is a true record  
5 of the testimony so given.

6  
7 Witness review, correction, and signature was

8 (X) by Code.

(X) requested.

9 ( ) waived.

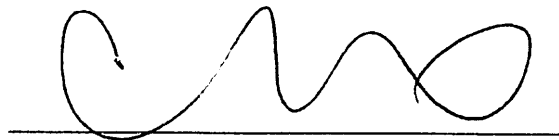
( ) not requested.

10 ( ) not handled by the deposition officer due to party  
11 stipulation.

12  
13 The dismantling, unsealing, or unbinding of the  
14 original transcript will render the reporter's  
15 certificate null and void.

16 I further certify that I am not financially  
17 interested in the action, and I am not a relative or  
18 employee of any attorney of the parties nor of any of  
19 the parties.

20 Dated this 29TH day of May, 2018.

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25 CANDY NEWLAND, CSR 14256

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## EXHIBIT E

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

REPORTER CERTIFIED  
TRANSCRIPT

DEMETRIC DI-AZ, OWEN DIAZ and  
LAMAR PATTERSON, an individual,

Plaintiffs,

**CONFIDENTIAL**

vs.

No. 3:17-cv-06748-WHO  
VOL II, pgs 187 - 292

TESLA, INC. DBA TESLA MOTORS,  
INC.; CITISTAFF SOLUTIONS,  
INC.; WEST VALLEY STAFFING  
GROUP; CHARTWELL STAFFING  
SERVICES, INC. and DOES 1-10,  
inclusive,

Defendants.

CONFIDENTIAL

VIDEOTAPED DEPOSITION OF

OWEN DIAZ

SAN FRANCISCO, CALIFORNIA

MONDAY, DECEMBER 3, 2018

Reported by:

GINA V. CARBONE, CSR #8249  
RPR, RMR, CRR, CCRR  
FILE NO.: 18-27207



10:30:31 1 MR. HORTON: Fenn Horton on behalf of West  
10:30:34 2 Valley Staffing Group; and my client Teresa  
10:30:35 3 Kossayian is here as well from West Valley Staffing  
10:30:39 4 Group.

10:30:41 5 MS. ANTONUCCI: Could you please state your  
10:30:42 6 name for the record.

10:30:43 7 THE WITNESS: My name is Owen Diaz.

10:30:46 8 THE VIDEOGRAPHER: Did you want to re-swear  
10:30:47 9 him?

10:30:48 10 MS. ANTONUCCI: Yes. Would you please  
10:30:59 11 re-swear the witness.

10:31:00 12

10:31:00 13 OWEN DIAZ,  
10:31:00 14 having first declared under penalty of perjury to  
10:31:00 15 tell the truth, was examined and testified as  
10:31:00 16 follows:

10:31:00 17

10:31:00 18 EXAMINATION BY MS. ANTONUCCI

10:31:02 19 BY MS. ANTONUCCI:

10:31:02 20 Q. Mr. Diaz, do you remember at your last  
10:31:04 21 deposition we went through some ground rules about  
10:31:06 22 how to testify and what your deposition is going to  
10:31:10 23 entail?

10:31:11 24 A. Yes. I remember.

10:31:13 25 Q. Okay.

11:35:08 1 he stopped making those remarks to you?

11:35:11 2 MR. ORGAN: Objection. Compound.

11:35:17 3 THE WITNESS: I don't recall.

11:35:18 4 BY MS. ANTONUCCI:

11:35:19 5 Q. Did you ever tell Tom Kawasaki that you  
11:35:23 6 felt like you could still work with Judy if he  
11:35:28 7 stopped making those remarks?

11:35:44 8 A. We never worked together in the beginning,  
11:35:45 9 so I don't recall.

11:35:51 10 Q. Did Judy stop bothering you after you  
11:35:54 11 reported the conduct to Tom Kawasaki about the  
11:35:59 12 comments he had made to you?

11:36:04 13 A. I didn't see him after that.

11:36:06 14 Q. So is that a yes?

11:36:10 15 A. Yes.

11:36:20 16 MS. ANTONUCCI: Let's take a short break.

11:36:22 17 THE VIDEOGRAPHER: We're going off the  
11:36:22 18 record. The time is 11:36 a.m.

11:36:26 19 (Recess taken.)

11:48:37 20 (Whereupon, Exhibit 29 was marked for  
11:48:37 21 identification.)

11:49:27 22 THE VIDEOGRAPHER: We're back on the  
11:49:28 23 record. Time is 11:49 a.m. This marks the  
11:49:30 24 beginning of disc No. 2.

11:49:32 25 //

12:23:20 1 (Whereupon, Exhibit 32 was marked for  
12:23:20 2 identification.)

12:23:42 3 BY MS. ANTONUCCI:

12:23:43 4 Q. Exhibit 32 appears to be a version of your  
12:23:45 5 resumé Bates stamped at the bottom ODIAZ181 to 184.

12:23:54 6 Do you know when you prepared this version  
12:23:56 7 of your resumé?

12:24:07 8 A. I don't recall when it was prepared.

12:24:09 9 Q. You see there on the top of page -- or in  
12:24:14 10 the middle of page 182 at the bottom it describes  
12:24:17 11 your work at CitiStaff/Tesla. Do you see that?

12:24:42 12 MR. ORGAN: At the bottom?

12:24:43 13 MS. ANTONUCCI: No. In the middle I said.

12:24:45 14 MR. ORGAN: Oh, sorry.

12:24:46 15 BY MS. ANTONUCCI:

12:24:46 16 Q. You see where it says "Shift Leader,"  
12:24:49 17 CitiStaff/Tesla Motors?

12:24:52 18 A. Uh-huh.

12:24:52 19 Q. Okay. So you must have prepared this  
12:24:56 20 document at some point after you worked at the Tesla  
12:25:00 21 factory, correct?

12:25:11 22 A. I don't recall.

12:25:12 23 Q. You don't recall when you prepared this  
12:25:14 24 document?

12:25:15 25 A. I don't recall when this was prepared.

12:25:16 1 Q. Can you read that section that says "Shift  
12:25:18 2 Leader" there on the page Bates stamped 182.

12:25:29 3 Tell me if that accurately reflects your  
12:25:32 4 job duties --

12:25:33 5 A. "Shift Leader."

12:25:35 6 Q. You don't need to read it out loud, but  
12:25:37 7 just the part, the portion where it says --

12:25:38 8 A. "Responsibilities"?

12:25:38 9 Q. Yes, correct.

12:25:39 10 Does that accurately reflect your  
12:25:40 11 responsibilities while you worked for CitiStaff at  
12:25:42 12 the Tesla factory?

12:25:47 13 MR. ORGAN: Objection. Compound.

12:25:53 14 THE WITNESS: Pretty much what I was doing.

12:25:55 15 BY MS. ANTONUCCI:

12:25:57 16 Q. Do you know if this is the resumé you  
12:25:59 17 submitted to AC Transit?

12:26:06 18 A. I don't know.

12:26:06 19 Q. You did prepare this resumé, though,  
12:26:14 20 correct?

12:26:14 21 A. I don't know. Could have been my wife.

12:26:34 22 Q. It says here, in describing your work at  
12:26:40 23 CitiStaff -- for CitiStaff at the Tesla factory,  
12:26:43 24 that you were a shift leader. Is that an accurate  
12:26:48 25 description of your position?

12:29:35 1 MR. ORGAN: Objection. Calls for a legal  
12:29:36 2 conclusion.

12:29:38 3 THE WITNESS: No. I do not own any Tesla  
12:29:42 4 products.

12:29:45 5 BY MS. ANTONUCCI:

12:29:45 6 Q. Okay. I'd like to turn your attention to  
12:29:48 7 Exhibit 32 (verbatim). It's a sexual harassment  
12:29:59 8 policy of CitiStaff Solutions.

12:30:00 9 Is that your name and signature at the  
12:30:03 10 bottom there?

12:30:06 11 A. Yes.

12:30:08 12 Q. The first page, my apologies.

12:30:11 13 The second page is an acknowledgment of  
12:30:17 14 policies, Bates stamped CITISTAFF 45 at the bottom.

12:30:22 15 Is that your name and signature at the bottom?

12:30:25 16 A. Give me one second. The other page was  
12:30:29 17 upside down. One second, please.

12:30:44 18 Yeah, they were my initials and signature.

12:30:47 19 Q. So is it accurate that you received  
12:30:49 20 Exhibit 32 at some point prior to or during your  
12:30:56 21 employment with CitiStaff?

12:31:01 22 THE REPORTER: I believe it's 33.

12:31:02 23 MR. ORGAN: This is 33.

12:31:04 24 BY MS. ANTONUCCI:

12:31:04 25 Q. I'm sorry, Exhibit 33.



12:31:05 1

A. Yes.

12:31:14 2

Q. Okay.

12:31:15 3

12:31:35 4

Turning our attention to Exhibit 34, pa- --  
is a document, a series of emails Bates stamped at  
the bottom 50 -- CITISTAFF 50 through 55.

12:31:38 5

12:31:44 6

Do you see that?

12:31:48 7

A. I have the document that you just handed to  
me.

12:31:50 8

12:31:52 9

12:31:54 10

Q. So is Exhibit -- in the middle of  
Exhibit 34, the email that begins on CitiStaff Bates  
stamped No. 52, do you see that? Right there. That  
page right there.

12:31:59 11

12:32:13 12

12:32:14 13

A. I see this here.

12:32:16 14

Q. You sent that email, correct?

12:32:20 15

12:32:22 16

A. It's -- the paper says it's from my email  
address.

12:32:22 17

Q. Okay. So did you send this email?

12:32:25 18

A. Yes, it would appear so.

12:32:26 19

12:32:54 20

Q. Okay. Exhibit 35 here is a series of  
emails Bates stamped at the bottom CITISTAFF 14  
through 18.

12:32:57 21

12:32:59 22

12:33:03 23

Just turning your attention to the email  
that begins in the middle of the first page there,  
says from Owen Diaz dated Saturday, January 23rd,  
2016 at 4:47 a.m., subject "Forward: Ramon."

12:33:10 24

12:33:17 25

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**EXHIBITS TO DEPOSITION OF OWEN DIAZ, Vol. II**  
**REDACTED – CONDITIONALLY FILED UNDER SEAL**


1 I, GINA V. CARBONE, CSR No. 8249, RPR, RMR, CRR,  
2 CCRR, certify: that the foregoing proceedings were taken  
3 before me at the time and place herein set forth; at  
4 which time the witness was duly sworn; and that the  
5 transcript is a true record of the testimony so given.  
6

7 Witness review, correction and signature was  
8 (X) by code. (X) requested.  
9 ( ) waived. ( ) not requested.  
10 ( ) not handled by the deposition officer due to party  
11 stipulation.  
12

13 The dismantling or unbinding of the original  
14 transcript will render the reporter's certificate null  
15 and void.

16 I further certify that I am not financially  
17 interested in the action, and I am not a relative or  
18 employee of any attorney of the parties, nor of any of  
19 the parties.

20 Dated this 7th day of December , 2018 .  
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22   
23 GINA V. CARBONE  
24 CSR #8249, STATE OF CALIFORNIA  
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## EXHIBIT F

**In the Matter Of:**  
**DIAZ vs TESLA, INC.**

3:17-CV-06748-WHO

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**OWEN ORAPIO DIAZ, JR.**

*June 21, 2019*

*VOLUME III*

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OWEN ORAPIO DIAZ, JR. VOLUME III  
DIAZ vs TESLA, INC.June 21, 2019  
300

1 Kumagai, representing Citistaff. 09:34:02

2 MS. JENG: Patricia Jeng, from Sheppard 09:34:07  
3 Mullin, representing Tesla. 09:34:08

4 MS. AVLONI: Navruz Avloni, here on behalf of 09:34:10  
5 the plaintiff, Owen Diaz. 09:34:12

6 THE VIDEOGRAPHER: Would the court reporter 09:34:15  
7 please swear in the witness? 09:34:16

8 09:34:34  
9 Whereupon, 09:34:34

10 OWEN ORAPIO DIAZ, JR., 09:34:34  
11 having first been called as a witness, was duly sworn 09:34:34  
12 and testified as follows: 09:34:34

13 09:34:34  
14 EXAMINATION 09:34:34

15 BY MR. ARANEDA: 09:34:34

16 Q Mr. Diaz, good morning. My name is Juan 09:34:34  
17 Araneda. I'm representing Defendant nextSource, who 09:34:37  
18 is now a party in this lawsuit. 09:34:39

19 I appreciate you being here today. 09:34:42

20 I'm going to be taking your deposition today, 09:34:44  
21 and I understand that you have already sat through two 09:34:45  
22 other sessions for your deposition; is that correct? 09:34:47

23 A Yes, sir. 09:34:52

24 Q Okay. 09:34:52

25 A Good morning to you, too. 09:34:52



1 employees -- of who the employees of nextSource were 09:51:18  
2 at Tesla? 09:51:23

3 MS. AVLONI: Objection to the extent that 09:51:25  
4 this has been previously asked and answered. 09:51:27

5 THE WITNESS: I don't understand the 09:51:31  
6 question. 09:51:32

7 BY MR. ARANEDA: 09:51:33

8 Q Do you know who was employed by nextSource 09:51:33  
9 that was working on-site at -- at Tesla? 09:51:38

10 A Wayne Jackson, I knew he was a liaison. 09:51:46

11 Q And when you say, "liaison," what do you mean 09:51:54  
12 by that? 09:51:58

13 A I would see him every now and again. 09:52:00

14 Q Other than seeing him every now and again, do 09:52:07  
15 you mean anything else by the word "liaison"? 09:52:10

16 A Do you want the dictionary definition of it? 09:52:18

17 Q No. I want your understanding of it. 09:52:21

18 A Someone that -- that facilitates information 09:52:25  
19 or -- back and forth. 09:52:31

20 Q Right. And so what -- do you know what 09:52:33  
21 information Wayne Jackson was facilitating back and 09:52:36  
22 forth? 09:52:39

23 A You would have to ask him that. 09:52:40

24 Q You don't know? 09:52:42

25 A No. 09:52:43

1 Q Okay. And do you know who he was 09:52:43

2 facilitating that information back and forth between? 09:52:46

3 A I would assume nextSource and Tesla. 09:52:51

4 Q Do you know, though? I don't want you to 09:52:55

5 guess. Is that a guess, or is that what you know? 09:52:57

6 A I don't know. 09:53:01

7 Q Did you ever report the use of the terms 09:53:05

8 "boy" or "hurry up" by Robert to anyone at Citistaff? 09:53:11

9 A I don't recall. 09:53:21

10 Q You also mentioned that Robert used the 09:53:21

11 N-word with you. 09:53:24

12 Did you ever report that to anyone at 09:53:26

13 nextSource? 09:53:27

14 MS. AVLONI: Objection to the extent it calls 09:53:29

15 for speculation as to who was an employee of 09:53:31

16 nextSource. 09:53:33

17 THE WITNESS: I don't recall. 09:53:37

18 BY MR. ARANEDA: 09:53:39

19 Q Did you ever report the use of the N-word 09:53:39

20 towards you by Robert to anyone at Citistaff? 09:53:45

21 A I don't recall. 09:53:52

22 Q You mentioned in your prior testimony that 09:53:53

23 Ramon Martinez also directed the N-word towards you. 09:53:56

24 Did you ever report the use of the N-word 09:54:00

25 towards you by Ramon Martinez to anyone at nextSource? 09:54:04



1 BY MR. ARANEDA: 10:37:12

2 Q After reporting Ramon Martinez for this 10:37:12  
3 picture that he drew on the bale of cardboard in 10:37:18  
4 January of 2016, did you ever have any other issues 10:37:22  
5 with Mr. Martinez? 10:37:26

6 MS. AVLONI: Asked and answered. 10:37:27

7 THE WITNESS: Not that I can recall. 10:37:30

8 BY MR. ARANEDA: 10:37:32

9 Q Did you ever work with Mr. Martinez after you 10:37:32  
10 complained about him drawing that picture on a bale of 10:37:36  
11 cardboard? 10:37:40

12 MS. AVLONI: Asked and answered. 10:37:40

13 THE WITNESS: Not that I can recall. 10:37:46

14 BY MR. ARANEDA: 10:37:47

15 Q When you were -- when you saw this picture on 10:37:47  
16 a bale of cardboard, what was your position? 10:37:50

17 A Elevator lead. 10:37:55

18 Q Okay. After reporting Ramon Martinez for 10:37:56  
19 that incident in January 25 [sic] -- I mean -- strike 10:37:59  
20 that -- in January 2016, for the picture on the bale 10:38:04  
21 of incident {sic}, did your position at -- 10:38:08

22 THE REPORTER: Can you rephrase -- can you 10:38:16  
23 say that again? 10:38:16

24 MR. ARANEDA: Sure. I will start over. 10:38:16

25 \\ 10:38:16

1 BY MR. ARANEDA: 11:16:48

2 Q At this time, Rothaj still reported to you; 11:16:48

3 correct? 11:16:52

4 A Yes, sir. 11:16:54

5 Q And you reported to Mr. Ramero; correct? 11:16:54

6 A Yes, sir. 11:16:57

7 Q Okay. I believe, after this -- you sent this 11:16:59

8 text, there was another incident with Mr. Foster where 11:17:03

9 he threatened shooting you; correct? 11:17:08

10 A Yes. He did threaten to kill me. 11:17:12

11 Q Okay. What happened -- what happened after 11:17:14

12 you reported -- strike that. 11:17:18

13 Did you report that to Ed Ramero? 11:17:20

14 A Yes, sir. 11:17:23

15 Q Okay. Did you report Mr. Foster threatening 11:17:24

16 to shoot you to anyone else besides Mr. Ramero? 11:17:28

17 A It's a possibility. 11:17:32

18 Q Do you recall at this time? 11:17:34

19 A No, I don't recall at this time. 11:17:34

20 Q What happened to Mr. Foster after you 11:17:37

21 reported him? 11:17:39

22 MS. AVLONI: Calls for speculation. 11:17:41

23 THE WITNESS: Security escorted him from the 11:17:48

24 building. 11:17:51

25 \\ 11:17:51

1 BY MR. ARANEDA:

11:17:51

2 Q Did he ever come back to work at Tesla after

11:17:51

3 security escorted him from the building?

11:17:55

4 A I don't know.

11:18:02

5 Q Did you ever work with Mr. Foster after

11:18:02

6 security escorted him from the building?

11:18:05

7 A No.

11:18:07

8 Q Do you know who decided to have security

11:18:10

9 escort Mr. Foster from the building?

11:18:14

10 A Ed Ramero.

11:18:16

11 Q And after this incident with Mr. Foster being

11:18:25

12 escorted from the building, your position as lead

11:18:29

13 elevator operator remained the same?

11:18:34

14 A I believe so, yes.

11:18:38

15 Q Your schedule as lead elevator operator

11:18:40

16 remained the same?

11:18:43

17 A I believe so, yes.

11:18:45

18 Q Your rate of pay until you got a raise later

11:18:46

19 remained the same; correct?

11:18:51

20 A I believe so, yes.

11:18:53

21 MR. ARANEDA: We've been going for a little

11:19:28

22 bit over an hour.

11:19:30

23 Do you guys want to take a five-minute break?

11:19:31

24 MS. AVLONI: How are you doing, Owen?

11:19:34

25 THE WITNESS: We can keep it going. I got to

11:19:36

1 THE WITNESS: I can't recall. 11:21:13

2 BY MR. ARANEDA: 11:21:18

3 Q Do you know what -- after you reported 11:21:18  
4 Mr. Timbreza about the comments that you recorded him 11:21:22  
5 and then later translated, do you know what happened, 11:21:27  
6 whether -- strike that. 11:21:33

7 Do you know if Mr. Timbreza was issued any 11:21:34  
8 disciplinary action after you complained about him? 11:21:38

9 A No, I do not know. 11:21:41

10 Q Did you ever work with Mr. Timbreza after you 11:21:45  
11 made the complaint about him? 11:21:47

12 A No. 11:21:54

13 Q All right. When -- when you complained about 11:22:12  
14 Mr. Timbreza, did you make any complaints or at least 11:22:28  
15 alert nextSource about your complaints regarding 11:22:34  
16 Mr. Timbreza? 11:22:36

17 A I don't recall. 11:22:44

18 Q Did you make any -- did you relay your 11:22:44  
19 complaints about Mr. Timbreza to anyone at Citistaff? 11:22:50

20 A I don't recall. 11:23:09

21 Q Did you ever learn that workers at Tesla were 11:23:09  
22 complaining about you? 11:23:16

23 A Yes. 11:23:23

24 Q When did you first learn that workers at 11:23:24  
25 Tesla were complaining about you? 11:23:29

OWEN ORAPIO DIAZ, JR. VOLUME III  
DIAZ vs TESLA, INC.

June 21, 2019

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1 A Through these documents. 11:23:35

2 Q Did you learn that workers at Tesla were 11:23:38  
3 complaining about you while you were still working at 11:23:42  
4 Tesla? 11:23:45

5 A No. 11:23:48

6 Q Did you know that workers at Tesla had 11:23:49  
7 complained about you abusing your authority as a lead 11:23:55  
8 elevator operator? 11:24:00

9 A No. 11:24:04

10 Q Did you learn while you worked at Tesla that 11:24:04  
11 workers there had complained that you were being 11:24:11  
12 confrontational? 11:24:16

13 A No. 11:24:17

14 Q Did you learn while you were working at Tesla 11:24:17  
15 that workers there complained about your attitude? 11:24:20

16 A No. 11:24:29

17 Q At some point, you were informed that you 11:24:30  
18 were going to be moved from your 6:00 P.M. to 6:00 11:24:33  
19 A.M. shift to a day shift; correct? 11:24:41

20 A I don't recall. 11:24:51

21 Q Did anyone ever inform you that you were 11:24:51  
22 going to be switched from your night -- from your 6:00 11:24:56  
23 P.M. to 6:00 A.M. shift to a day shift? 11:24:59

24 A I don't recall. 11:25:07

25 Q All right. This is previously marked as 11:25:07

1 Exhibit 24 to your deposition.

11:25:17

2 (Previously marked Exhibit 24.)

11:25:37

3 BY MR. ARANEDA:

11:25:37

4 Q The first e-mail in time here is March 4th,  
5 and it looks like you are writing to Ed Ramero because  
6 your mother passed away on February 27, 2016, and you  
7 say, I will be gone on these days. I will be back on  
8 March 12, 2016.

11:25:37

11:25:45

11:25:49

11:25:52

11:25:56

9 What days were you indicating that you would  
10 be gone?

11:26:00

11:26:03

11 A Up until March 12th.

11:26:08

12 Q So from March 4th until March 12th, you would  
13 be out of work?

11:26:10

11:26:14

14 A That's what the e-mail says.

11:26:21

15 Q Okay. I just want to get your understanding.

11:26:23

16 So you were going to be gone from March 4th  
17 to March 12, 2016; correct?

11:26:25

11:26:28

18 A Yes. I wrote the e-mail on March the 4th at  
19 9:08 P.M., and I explained to them that I would be  
20 back on 3-12-16.

11:26:31

11:26:33

11:26:36

21 Q Did you -- after March 4th, did you ever come  
22 back to work at Tesla?

11:26:38

11:26:41

23 A No.

11:26:43

24 Q Did you ever inform anyone, either at Tesla  
25 or at Citistaff, that you would not be coming back?

11:26:45

11:26:49

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DIAZ vs TESLA, INC.June 21, 2019  
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1 BY MS. STEVENS:

12:47:59

2 Q And you received a paycheck every week or  
3 every two weeks?

12:47:59

12:48:01

4 A Once a week.

12:48:03

5 Q And did you ever -- did you get an actual  
6 paycheck in hand or was it direct deposit?

12:48:04

12:48:07

7 A In the beginning, I had a physical paycheck.

12:48:09

8 Q And did the paycheck indicate who signed the  
9 paycheck or what company issued the paycheck?

12:48:12

12:48:15

10 A I believe it was Citistaff.

12:48:18

11 Q And were you ever advised of someone at  
12 Citistaff to communicate with if you had to be late  
13 for work or could not attend work?

12:48:20

12:48:23

12:48:26

14 A No.

12:48:29

15 Q You were never told that?

12:48:30

16 A No. I was supposed to contact Tesla and let  
17 the Tesla supervisor know I was going to be late for  
18 work or wasn't coming in that day. All communications  
19 were directed towards Ed Ramero.

12:48:31

12:48:34

12:48:37

12:48:42

20 Q And at some point in January when the  
21 incident with the drawing on the cardboard, you  
22 elected -- in addition to sending an e-mail to Ed  
23 Ramero, you also sent an e-mail to Monica de Leon at  
24 Citistaff; is that right?

12:48:45

12:48:48

12:48:51

12:48:54

12:48:59

25 A Yes.

12:49:00

OWEN ORAPIO DIAZ, JR. VOLUME III  
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1 STATE OF CALIFORNIA )  
2 ) SS:  
3 CITY AND COUNTY OF SAN FRANCISCO )  
4

5 I, Michael Cundy, CSR NO. 12271, a  
6 Certified Shorthand Reporter of the State of  
7 California, do hereby certify:

8 That the foregoing proceedings were  
9 taken before me at the time and place herein set  
10 forth; that any witnesses in the foregoing  
11 proceedings, prior to testifying, were placed under  
12 oath; that a verbatim record of the proceedings was  
13 made by me using machine shorthand which was  
14 thereafter transcribed under my direction; further,  
15 that the foregoing is an accurate transcription  
16 thereof.

17 I further certify that I am neither  
18 financially interested in the action nor a relative or  
19 employee of any attorney or any of the parties.

20 IN WITNESS WHEREOF, I have this date  
21 subscribed my name.

22 Dated: July 3, 2019



24 Michael Cundy, CSR NO. 12271  
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## EXHIBIT G

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN	)	
DIAZ, and LAMAR	)	
PATTERSON,	)	
Plaintiffs,	)	
vs.	)	Case No.: 3:17-CV-066748
	)	WHO
	)	
TESLA, INC., dba TESLA	)	
MOTORS, INC.; CITISTAFF	)	
SOLUTIONS, INC.; WEST	)	
VALLEY STAFFING GROUP;	)	
CHARTWELL STAFFING	)	
SERVICES, INC.; and DOES	)	
1-10, inclusive,	)	
Defendants.	)	
_____	)	

DEPOSITION OF MONICA DE LEON

Thursday, December 6, 2018

TAKEN BEFORE:

HEIDI BELTON, CSR, RPR, CRR, CCRR, CRC

CSR No. 12885

MONICA DE LEON

December 6, 2018

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1 THURSDAY, DECEMBER 6, 2018 10:05 A.M.

2 P R O C E E D I N G S

10:04:09 3 MS. AVLONI: Today is Thursday,  
10:04:11 4 December 6, 2018. This is the deposition of Monica  
10:04:14 5 De Leon by plaintiffs in the matter of Di-az versus  
10:04:18 6 Tesla, et al., in the United States District Court,  
10:04:20 7 for the Northern District of California. Case  
10:04:23 8 number 3:17-CV-066748-WHO.

10:04:31 9 My name is Navruz Avloni, and I'm  
10:04:34 10 videotaping this deposition on behalf of the  
10:04:37 11 plaintiffs. The deposition is taking place at the  
10:04:41 12 California Civil Rights Law Group, located at 180  
10:04:45 13 Grand Avenue, Suite 1380, in Oakland, California.  
10:04:51 14 The time is now 10:05 a.m. And this is media 1 in  
10:04:55 15 the video recording.

10:04:58 16 Will all the parties in the room please  
10:05:01 17 state their appearances.

10:05:02 18 MR. RUTSCHMAN: Aaron Rutschman, counsel  
10:05:03 19 for CitiStaff and Tesla.

10:05:06 20 MS. AVLONI: And Navruz Avloni, here for  
10:05:08 21 the plaintiffs.

10:05:09 22 Will the court reporter please swear the  
10:05:11 23 witness.

10:05:11 24 (Whereupon, the witness, MONICA DE LEON,  
10:05:11 25 having been duly sworn, testified as follows:)

MONICA DE LEON

December 6, 2018

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10:43:28 1 BY MS. AVLONI:

10:43:29 2 Q. What kind of paperwork would CitiStaff

10:43:31 3 provide to applicants when they register?

10:43:33 4 A. Their application. And in the application

10:43:36 5 it's in all the policies that we have.

10:43:45 6 Q. So CitiStaff has applicants fill out an

10:43:47 7 application?

10:43:48 8 A. Yes.

10:43:50 9 Q. And CitiStaff provides the applicants with

10:43:52 10 policies?

10:43:53 11 A. That's in the applications, yes.

10:43:56 12 Q. Do you know what kind of policies are in

10:43:57 13 the application?

10:44:03 14 A. From sexual harassment to job abandonment.

10:44:13 15 That's all I remember.

10:44:16 16 Q. Does CitiStaff provide the applicants with

10:44:18 17 anything else other than the application and the

10:44:19 18 policies that are provided with it?

10:44:24 19 MR. RUTSCHMAN: Objection; vague and

10:44:24 20 ambiguous.

10:44:27 21 THE WITNESS: No.

10:44:27 22 BY MS. AVLONI:

10:44:33 23 Q. Do you know if nextSource's orientation

10:44:39 24 packet also includes policies that cover topics like

10:44:44 25 sexual harassment?

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10:55:57 1 A. It was given to me in e-mail.

10:55:58 2 Q. So you received an e-mail regarding Owen

10:56:03 3 feeling uncomfortable about a picture that was

10:56:05 4 drawn?

10:56:05 5 A. Mm-hmm, but we spoke, yes.

10:56:07 6 Q. And do you recall who that e-mail was sent

10:56:10 7 by? Was it Owen sending you the e-mail?

10:56:25 8 A. Yes, it was.

10:56:26 9 Q. And you said you spoke to Owen about him

10:56:30 10 feeling uncomfortable about it -- feeling

10:56:33 11 uncomfortable about the picture drawn. Did you

10:56:35 12 speak to Owen before he sent you that e-mail or

10:56:38 13 after he sent you that e-mail?

10:56:40 14 A. After.

10:56:41 15 MR. RUTSCHMAN: Objection; misstates the  
10:56:41 16 witness' prior testimony.

10:56:45 17 THE WITNESS: So spoke to him after.

10:56:47 18 BY MS. AVLONI:

10:56:59 19 Q. I'll get back to this later. But other  
10:57:01 20 than receiving complaints of CitiStaff employees not  
10:57:08 21 liking their job or not liking their placement or  
10:57:11 22 their position and other than receiving this  
10:57:15 23 information from Owen about him being uncomfortable  
10:57:18 24 about a picture drawn, do you recall any other type  
10:57:21 25 of complaints that you would receive from CitiStaff?

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11:16:06 1 ambiguous.

11:16:09 2 THE WITNESS: The Owen Diaz situation.

11:16:17 3 BY MS. AVLONI:

11:16:17 4 Q. And you mentioned one or two. Is there  
11:16:22 5 another investigation that you recall being involved  
11:16:23 6 in?

11:16:24 7 A. Just -- just from what I recall, just,  
11:16:28 8 like, an altercation that happened between Owen Diaz  
11:16:33 9 and another -- another gentleman, another candidate.

11:16:41 10 Q. Do -- do you recall -- does the name  
11:16:44 11 Rothaj Foster sound familiar?

11:16:46 12 A. Yes, ma'am.

11:16:47 13 Q. And so was the other investigation related  
11:16:49 14 to the altercation between Rothaj Foster and Owen  
11:16:52 15 Diaz?

11:16:52 16 A. That's what it was, yes.

11:17:01 17 Q. And Rothaj Foster was a CitiStaff  
11:17:03 18 employee?

11:17:04 19 MR. RUTSCHMAN: Objection; calls for  
11:17:04 20 speculation and calls for a legal conclusion.

11:17:11 21 THE WITNESS: Rothaj Foster did work for  
11:17:12 22 CitiStaff.

11:17:13 23 BY MS. AVLONI:

11:17:13 24 Q. And Owen was a CitiStaff employee?

11:17:16 25 MR. RUTSCHMAN: Objection; calls for

12:33:51 1 of the complaint of the drawing, yes.

12:33:53 2 BY MS. AVLONI:

12:33:56 3 Q. Okay. How about just in general?

12:34:01 4 A. In general, yes.

12:34:11 5 Q. You seem hesitant. Is there a reason?

12:34:16 6 A. Like I said, it's just -- the situation  
12:34:19 7 with the drawing, it seemed completely credible to  
12:34:24 8 me. But when it came to the altercation -- and I  
12:34:27 9 did -- spoke to Owen about, you know, what happened  
12:34:30 10 with him and Rothaj -- there was a lot of he  
12:34:33 11 couldn't recall what was said or what was -- what  
12:34:40 12 happened. So in that situation I didn't -- it  
12:34:42 13 didn't really seem too credible --

12:34:45 14 Q. Did you --

12:34:46 15 A. -- when we were speaking.

12:34:49 16 Q. When you spoke to him about the Rothaj  
12:34:52 17 situation, did you speak to him in person or by  
12:34:55 18 phone?

12:34:55 19 A. It was by phone.

12:34:56 20 Q. And was he at home at that time, do you  
12:34:58 21 know, or was he at work?

12:35:00 22 MR. RUTSCHMAN: Objection; calls for  
12:35:00 23 speculation.

12:35:01 24 BY MS. AVLONI:

12:35:02 25 Q. If you know.

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12:35:03 1 A. That I don't remember.

12:35:03 2 Q. Did you speak to Rothaj in person or by  
12:35:06 3 phone about that situation?

12:35:08 4 A. By phone.

12:35:17 5 Q. Have you -- while you were working for  
12:35:20 6 CitiStaff, has anyone brought to your attention any  
12:35:24 7 concerns about Owen Diaz?

12:35:27 8 MR. RUTSCHMAN: Objection; vague and  
12:35:27 9 ambiguous.

12:35:29 10 THE WITNESS: Can you repeat the question?

12:35:31 11 BY MS. AVLONI:

12:35:31 12 Q. Yes. While you were working for  
12:35:33 13 CitiStaff, has anyone at all brought any concerns to  
12:35:37 14 you about Owen Diaz?

12:35:39 15 A. Yes, there was two concerns. One was --  
12:35:47 16 well, yes, there was.

12:35:49 17 Q. What were those concerns?

12:35:51 18 A. So I had spoke to Rothaj. He had called  
12:35:57 19 me and would let me know that -- he was letting me  
12:36:03 20 know that, you know, Owen wasn't always at his post  
12:36:07 21 where he was supposed to be, he would be gone for  
12:36:10 22 long periods of time or would take longer lunch  
12:36:16 23 breaks or long breaks.

12:36:19 24 There was an incident where he stated that  
12:36:20 25 they were really backed up at the elevators and he



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12:48:49 1 Q. These are the only two that you recall?

12:48:55 2 A. Yeah.

12:48:56 3 MR. RUTSCHMAN: Is that a yes?

12:48:56 4 THE WITNESS: Yes.

12:48:56 5 BY MS. AVLONI:

12:48:57 6 Q. And referring to Owen bringing concerns,  
12:49:00 7 you recall him bringing two concerns to your  
12:49:02 8 attention, one about the picture and the other one  
12:49:04 9 about the altercation with Rothaj; is that correct?

12:49:06 10 A. Correct.

12:49:08 11 Q. In regards to the picture, when he  
12:49:15 12 communicated that concern to you, what did you do?

12:49:17 13 A. So when he told me about it, you know, due  
12:49:25 14 to the fact that we take it seriously, we  
12:49:30 15 immediately took it up to HR -- Judy -- and let my  
12:49:38 16 supervisors know about it as well, which they said  
12:49:44 17 to talk to Judy for this case.

12:49:51 18 Q. Did you talk to Judy?

12:49:53 19 A. Yes, I did.

12:49:57 20 Q. What did you guys discuss?

12:49:59 21 A. I told Judy about, you know -- I told Judy  
12:50:03 22 that I discussed -- spoke with Owen, you know. I  
12:50:09 23 checked in to -- with him to see do you -- are you  
12:50:19 24 going to return to your -- to your job. He said  
12:50:22 25 yes. I asked him if he wanted to be moved to a

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12:50:26 1 different department. He said no. You know, he was  
12:50:33 2 upset and a little aggravated. But I let him know  
12:50:42 3 that I'm -- HR is going to deal with this. I have  
12:50:47 4 already brought it up to them to their immediate  
12:50:50 5 attention. I let my supervisors know. And I let  
12:50:57 6 Chartwell -- I gave them the okay to consent to  
12:51:00 7 speak with Owen Diaz.

12:51:12 8 Q. Do you recall discussing anything else  
12:51:13 9 with Owen Diaz regarding this situation? I'm sorry,  
12:51:19 10 actually. You were describing to me the  
12:51:20 11 conversation you had with Judy; right?

12:51:24 12 A. Yes.

12:51:25 13 Q. Because -- let's back up. Let's get a  
12:51:27 14 clear record.

12:51:27 15 So when Owen raised the concern about the  
12:51:33 16 picture to you, you talked to Owen. And what did he  
12:51:42 17 tell you?

12:51:45 18 MR. RUTSCHMAN: Objection; asked and  
12:51:45 19 answered.

12:51:50 20 THE WITNESS: So he pretty much told me  
12:51:53 21 how -- what happened, how he came across the  
12:51:58 22 picture. You know, he felt that the rac- -- the  
12:52:07 23 picture was racist and that he wanted to make a  
12:52:17 24 complaint.

12:52:21 25 BY MS. AVLONI:

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12:57:04 1 A. I recall Owen Diaz saying that they had an  
12:57:08 2 altercation and that Rothaj was threatening to shoot  
12:57:17 3 him and threatening his car, because he had a nice  
12:57:24 4 car at the time. And that, you know, Rothaj was  
12:57:30 5 being very aggressive and --

12:57:37 6 Q. And this is the conversation you had on  
12:57:38 7 the phone?

12:57:38 8 A. Yes.

12:57:39 9 Q. Did he say anything else about the  
12:57:40 10 situation that you recall?

12:57:46 11 A. Not that I recall.

12:57:47 12 Q. And what did you tell Owen?

12:57:55 13 A. So I told Owen. I said oh, okay, again,  
12:57:59 14 are you going to return to work? How do you feel?  
12:58:02 15 Do you feel comfortable with going back to work? He  
12:58:06 16 said yes. Do you feel comfortable with being in  
12:58:10 17 your same position? And -- or would you like to be  
12:58:17 18 moved to a different spot. He said no, he wanted to  
12:58:21 19 continue where he was at. So I let him know that in  
12:58:23 20 this situation, you know, I'm going to take this up  
12:58:29 21 to HR as well. I'll be speaking with, you know,  
12:58:37 22 Rothaj. And I let him know that Chartwell would be  
12:58:40 23 speaking to him and they would be doing their  
12:58:47 24 investigation.

12:58:49 25 Q. Did you take notes during that

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12:58:51 1 conversation?

12:58:51 2 A. I -- yeah. I believe I did.

12:58:54 3 Q. And you would have saved those notes in  
12:58:56 4 the CitiStaff system?

12:58:58 5 A. It would have been in the system.

12:59:00 6 Q. And then after he -- Owen raised this  
12:59:03 7 concern to your attention, did you have a  
12:59:05 8 conversation with Rothaj?

12:59:08 9 A. Yes.

12:59:08 10 MR. RUTSCHMAN: Objection; misstates the  
12:59:10 11 witness' prior testimony.

12:59:12 12 THE WITNESS: After I spoken [sic] and  
12:59:15 13 took down the information from Owen Diaz, I did  
12:59:22 14 later call Rothaj Foster as well to see what  
12:59:25 15 happened on his side, on his end.

12:59:28 16 BY MS. AVLONI:

12:59:28 17 Q. Okay. And what did Rothaj tell you?

12:59:33 18 A. So Rothaj did admit to them having, you  
12:59:38 19 know, an argument. He did admit to, you know,  
12:59:42 20 speaking kind of loud, raising his voice. But he  
12:59:46 21 denied that -- you know, he said that he never made  
12:59:51 22 any threats of any sort about any caller, about  
12:59:55 23 shooting anybody or any of that sort. He said  
01:00:02 24 that -- you know, that Owen Diaz was already kind of  
01:00:09 25 aggressive and very strong -- he would come out very

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01:00:13 1 strong and very aggressive. And, you know, that day  
01:00:17 2 he said I do admit to -- to arguing and yelling  
01:00:23 3 because I felt like -- he felt that Owen Diaz was  
01:00:26 4 being disrespectful to him and, you know, taking  
01:00:32 5 advantage of his power as a lead, telling him that  
01:00:36 6 he can go to his break or his lunch whenever he  
01:00:39 7 tells him to or --

01:00:47 8 Q. So he -- Rothaj told you that Owen Diaz  
01:00:49 9 was being disrespectful by telling Rothaj that he  
01:00:53 10 can go on break or his lunch when Owen told him to?

01:00:56 11 A. He said that -- that was something that he  
01:00:58 12 said, but he was just being disrespectful as far as  
01:01:04 13 cursing at him and telling him other things like,  
01:01:09 14 you know, "shut up" or --

01:01:11 15 Q. He said that to you?

01:01:13 16 A. Rothaj.

01:01:16 17 Q. Do you know if Owen -- what Owen's job  
01:01:22 18 title was as a CitiStaff contractor at the Tesla  
01:01:26 19 facility?

01:01:26 20 A. Elevator lead.

01:01:28 21 Q. And how about Rothaj Foster? Do you know  
01:01:30 22 what his title was?

01:01:31 23 A. He was at the elevators as well, but --

01:01:36 24 Q. Do you know if an elevator lead had the  
01:01:39 25 ability to tell someone like in Rothaj's position

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01:04:48 1 know, I let Chartwell speak to Owen and that they  
01:04:57 2 were going to take care of the investigation, they  
01:04:59 3 were going to investigate.

01:05:01 4 BY MS. AVLONI:

01:05:01 5 Q. Do you know if Chartwell did investigate?

01:05:03 6 **A. That I do not know.**

01:05:08 7 Q. If somebody wanted to speak to a Chartwell  
01:05:10 8 [sic] contractor like Owen, were they required --  
01:05:12 9 were they required to get Chartwell's permission?

01:05:16 10 MR. RUTSCHMAN: Objection; calls for  
01:05:16 11 speculation.

01:05:17 12 THE WITNESS: Can you repeat that?

01:05:18 13 BY MS. AVLONI:

01:05:18 14 Q. Yeah. While conducting investigations,  
01:05:20 15 let's say, if a client or another -- if a client  
01:05:28 16 like nextSource or Tesla or Chartwell, if one of  
01:05:34 17 those entities wanted to talk to a Chartwell --  
01:05:39 18 sorry -- a CitiStaff contractor, would they need to  
01:05:41 19 get permission from CitiStaff?

01:05:43 20 **A. Yeah, I would think so.**

01:05:46 21 Q. Do you know why?

01:05:51 22 **A. Disclosures. Confidential.**

01:05:56 23 Q. What does that mean?

01:05:57 24 **A. Confidential?**

01:06:00 25 Q. Mm-hmm.

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01:06:00 1           **A.    Just for -- for the person's own**  
01:06:04 2           **confidential [sic], maybe they don't want to speak**  
01:06:07 3           **to a third party; they want to -- you know. Or if**  
01:06:11 4           **they're concerned about maybe they think they're in**  
01:06:13 5           **trouble or something like that.**

01:06:19 6           **Q.    Did you ask Owen if it was okay for his**  
01:06:22 7           **permission to speak to Chartwell?**

01:06:24 8           **A.    Yes, I did. When I spoke with him, I did**  
01:06:26 9           **let him know Chartwell, they want to speak with you,**  
01:06:32 10          **and are you willing to participate? And he said**  
01:06:36 11          **yes.**

01:06:36 12          **Q.    And have you had a situation where you**  
01:06:38 13          **refused to permit a CitiStaff contractor to talk to**  
01:06:44 14          **like a client or an entity involved with a client?**

01:06:48 15          **A.    No, I haven't had a situation like that.**

01:06:53 16          **Q.    Did Judy ever talk to you about the**  
01:06:56 17          **altercation between Rothaj and Owen Diaz after you**  
01:07:04 18          **had that conversation with her where you described**  
01:07:06 19          **to her what happened?**

01:07:09 20          **A.    After that, no.**

01:07:16 21          **Q.    How about the picture incident where Owen,**  
01:07:19 22          **you know, raised a concern about an image that he**  
01:07:23 23          **saw that he believe was racist. Did you and Judy**  
01:07:26 24          **ever have a conversation about that again after you**  
01:07:29 25          **described to her Owen's complaints?**

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01:09:26 1 by CitiStaff?

01:09:27 2 MR. RUTSCHMAN: Objection; calls for  
01:09:27 3 speculation. Calls for a legal conclusion.

01:09:31 4 THE WITNESS: That I don't know.

01:09:32 5 BY MS. AVLONI:

01:09:32 6 Q. How about do you know if Owen Diaz still  
01:09:34 7 works at the Tesla facility?

01:09:37 8 MR. RUTSCHMAN: Calls for speculation.

01:09:39 9 THE WITNESS: No.

01:09:40 10 BY MS. AVLONI:

01:09:40 11 Q. And how do you know that he no --

01:09:43 12 MR. RUTSCHMAN: I was just going to  
01:09:43 13 clarify her response. Was that no, he doesn't work  
01:09:48 14 there, or no, you don't know?

01:09:49 15 THE WITNESS: No, he doesn't work at  
01:09:51 16 Tesla.

01:09:51 17 BY MS. AVLONI:

01:09:52 18 Q. And how do you know Owen Diaz no longer  
01:09:54 19 works at Tesla?

01:09:55 20 A. When I was there, they had nextSource send  
01:09:58 21 me an e-mail stating that they wanted to -- that  
01:10:01 22 they had ended his assignment.

01:10:09 23 Q. Okay. nextSource sent you an e-mail  
01:10:11 24 saying they had ended Owen Diaz' assignment at the  
01:10:13 25 Tesla facility; is that correct?



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01:10:14 1 A. Mm-hmm.

01:10:15 2 Q. And what was your response to that?

01:10:19 3 A. So we -- to take action. So since the  
01:10:25 4 assignment ended, I gave Owen Diaz a call, letting  
01:10:31 5 him know that his assignment had been ended and that  
01:10:35 6 he was no longer able to return to the facility. So  
01:10:45 7 to not report to work for his shift that day.

01:10:49 8 And he was mad, upset. He was cussing.  
01:10:53 9 He was upset at the fact that, you know, he was  
01:10:56 10 losing his job and that he wanted to continue  
01:10:59 11 working at Tesla.

01:11:07 12 And, you know, I -- I let him know  
01:11:09 13 unfortunately, you know, they have made a decision  
01:11:13 14 to end your assignment. So, you know, please do not  
01:11:17 15 return to the premises. Your badge is deactivated.  
01:11:20 16 You won't be able to get in anyway if you tried.

01:11:24 17 So -- you know, and then after that he  
01:11:31 18 continued to just kind of rant and just cussed a  
01:11:37 19 little more. And then he eventually just hung up.

01:11:39 20 Q. And who from nextSource informed you  
01:11:43 21 that Owen Diaz' assignment had ended?

01:11:45 22 A. It was Wayne Jackson.

01:11:47 23 Q. And did he inform you by e-mail or phone?

01:11:49 24 A. E-mail.

01:11:52 25 Q. He sent you an e-mail saying his

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01:11:54 1 assignment has ended?

01:11:56 2 A. Mm-hmm.

01:11:56 3 Q. What did you respond with?

01:11:57 4 A. I responded him, let him know okay. He --

01:12:01 5 I have let him know, and he won't be returning.

01:12:05 6 Q. You had let him know after Wayne Jackson

01:12:07 7 had sent you that e-mail; right? Not before Wayne

01:12:10 8 Jackson sent you that e-mail?

01:12:11 9 A. I let him know after Wayne Jackson sent me

01:12:15 10 the e-mail stating that they were terminating Owen

01:12:17 11 Diaz' assignment.

01:12:19 12 Q. Did Wayne Jackson tell you why they were

01:12:22 13 terminating Owen Diaz' assignment?

01:12:24 14 A. It was a no-call/no-show. He had -- he

01:12:31 15 had mentioned to me -- Owen Diaz had mentioned to me

01:12:33 16 that he was leaving to LA for a funeral. And he

01:12:38 17 gave me specific dates. It was like just a couple

01:12:42 18 of days, two or three days. And I let nextSource

01:12:46 19 know. And he was gone for longer than what he had

01:12:52 20 stated.

01:12:55 21 Q. Do you know whose funeral it was?

01:12:57 22 A. It was his mom's.

01:13:01 23 Q. Did you call Owen and ask him why he

01:13:05 24 hasn't returned?

01:13:06 25 A. I didn't know that he hadn't returned.

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01:18:06 1 **A. A what kind of policy?**

01:18:09 2 Q. Bereavement.

01:18:11 3 MR. RUTSCHMAN: Bereavement.

01:18:12 4 BY MS. AVLONI:

01:18:13 5 Q. Bereavement.

01:18:13 6 **A. Oh --**

01:18:14 7 MR. RUTSCHMAN: Objection; calls for  
01:18:14 8 speculation.

01:18:15 9 BY MS. AVLONI:

01:18:15 10 Q. Leave policy.

01:18:16 11 **A. That I don't know.**

01:18:16 12 Q. Do you know if nextSource has a  
01:18:19 13 bereavement leave policy?

01:18:21 14 MR. RUTSCHMAN: Objection; calls for  
01:18:21 15 speculation.

01:18:22 16 THE WITNESS: That I don't know.

01:18:23 17 BY MS. AVLONI:

01:18:24 18 Q. Tesla? Do you know whether Tesla has such  
01:18:26 19 a policy?

01:18:28 20 MR. RUTSCHMAN: Objection; calls for  
01:18:28 21 speculation.

01:18:29 22 THE WITNESS: That I don't know.

01:18:30 23 BY MS. AVLONI:

01:18:30 24 Q. Did you try to place Owen at another  
01:18:34 25 facility after he was separated from Tesla?

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01:18:37 1 MR. RUTSCHMAN: Objection; vague and

01:18:38 2 ambiguous.

01:18:42 3 THE WITNESS: I did mention that, you

01:18:45 4 know, we could possibly place him somewhere else.

01:18:48 5 But it wouldn't be making the same amount of money

01:18:51 6 that he was making there. And he just -- basically

01:18:57 7 he didn't want to hear it. He was like F that.

01:19:00 8 Thirteen dollars ain't -- ain't shit, basically.

01:19:07 9 So -- you know, I tried to get him to calm

01:19:15 10 down by telling him hey, you know, I could probably

01:19:18 11 place you somewhere else. You're not just -- you

01:19:21 12 know, your assignment didn't work here, you know, it

01:19:24 13 ended here. But, you know, do you want to try

01:19:27 14 something else. And he didn't. He didn't want to

01:19:30 15 do anything else basically. So --

01:19:33 16 BY MS. AVLONI:

01:19:33 17 Q. Was Tesla -- do you know if Tesla paid the  
01:19:37 18 highest rate to CitiStaff contractors?

01:19:40 19 MR. RUTSCHMAN: Objection; calls for  
01:19:40 20 speculation.

01:19:45 21 THE WITNESS: I don't know if Tesla paid  
01:19:47 22 the highest rate to Citistaff contractors. But when  
01:19:51 23 a lot of people hear Tesla, it's a well-known  
01:19:55 24 manufacturer for these electric cars. So when  
01:19:58 25 people hear Tesla, everybody just wants to work at

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01:20:01 1 Tesla.

01:20:05 2 BY MS. AVLONI:

01:20:06 3 Q. Yeah. Do you know how much Owen was  
01:20:08 4 receiving per hour when working at Tesla?

01:20:12 5 MR. RUTSCHMAN: Objection; calls for  
01:20:12 6 speculation.

01:20:16 7 THE WITNESS: I don't recall the start.  
01:20:18 8 It could be 16. But I remember when they gave me  
01:20:23 9 the raise for him, it was 18.

01:20:27 10 BY MS. AVLONI:

01:20:27 11 Q. Did you have any other -- did CitiStaff  
01:20:29 12 have any other clients at the time that you were  
01:20:32 13 working there that paid \$16 an hour or up?

01:20:41 14 MR. RUTSCHMAN: Objection; calls for  
01:20:41 15 speculation.

01:20:43 16 THE WITNESS: Yeah, we did.

01:20:44 17 BY MS. AVLONI:

01:20:44 18 Q. And how come you didn't offer any of those  
01:20:46 19 positions to him?

01:20:49 20 A. Well, I had mentioned it to him, but he  
01:20:52 21 didn't want to take the offer.

01:20:53 22 Q. Do you know -- did he tell you why not?

01:20:55 23 A. He just said that wasn't enough.

01:20:58 24 Q. Sixteen dollars wasn't enough?

01:20:59 25 A. Yeah.

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02:23:04 1 happened like graveyard shift, they would probably  
02:23:13 2 contact the client, let the client know before  
02:23:18 3 letting me know at -- out of the office at midnight.

02:23:22 4 BY MS. AVLONI:

02:23:22 5 Q. Did CitiStaff have a requirement that its  
02:23:25 6 contractors contact the CitiStaff personnel like  
02:23:29 7 yourself when it comes to complaints of harassment?  
02:23:30 8 Or can CitiStaff contractors make the complaints  
02:23:36 9 directly to the clients?

02:23:37 10 MR. RUTSCHMAN: Objection; compound.

02:23:40 11 Calls for speculation. Asked and answered.

02:23:50 12 THE WITNESS: So they would be able to  
02:23:51 13 report to me as well. And if for some reason they  
02:23:54 14 can't get ahold of me and they felt they needed to  
02:23:59 15 tell their supervisor -- they tell their supervisor  
02:24:02 16 about it, then yeah, yes.

02:24:05 17 BY MS. AVLONI:

02:24:05 18 Q. And would supervisors -- do you know if  
02:24:08 19 they're required to notify you at some point if  
02:24:11 20 supervisors become aware of such complaints?

02:24:14 21 MR. RUTSCHMAN: Objection; calls for  
02:24:14 22 speculation.

02:24:16 23 THE WITNESS: In that case -- in this case  
02:24:17 24 where it was the -- with Owen -- with Owen's  
02:24:22 25 complaint, since it did happen during his graveyard

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02:24:26 1 shift -- that is basically what happened. He let  
02:24:30 2 his supervisors know. And they -- and nextSource.  
02:24:36 3 And nextSource told me. So -- in this case that  
02:24:41 4 is what happened. They -- he reported to his  
02:24:44 5 supervisors in nextSource and they reported to me.  
02:24:48 6 BY MS. AVLONI:

02:24:49 7 Q. And why did they report to you; do you  
02:24:52 8 know?

02:24:52 9 A. Since he was a CitiStaff contractor, that  
02:24:57 10 is why they reported to me as well.

02:25:11 11 Q. If a CitiStaff contractor joined  
02:25:13 12 CitiStaff, is there any sort of training provided at  
02:25:16 13 all that you are aware of that tells that contractor  
02:25:23 14 who to go to for what? So, for example, you know,  
02:25:26 15 go to CitiStaff employee for payroll issues. Go to  
02:25:31 16 this person for complaints. Go to this person for  
02:25:35 17 job description, go to this person on safety  
02:25:39 18 reasons. Is there some sort of a manual, tutorial,  
02:25:42 19 or training that's provided to CitiStaff contractors  
02:25:45 20 that tells the contractors where or who to go to in  
02:25:50 21 these situations?

02:25:52 22 MR. RUTSCHMAN: Objection; compound.

02:25:55 23 Vague and ambiguous. Asked and answered.

02:25:57 24 THE WITNESS: They -- the CitiStaff  
02:26:00 25 contractors knew that, you know, I was the only one

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02:26:04 1 in the office. So I also let them know if you have  
02:26:08 2 any questions or concerns, you can give me a call.  
02:26:14 3 And, you know, let's just say if -- in any situation  
02:26:18 4 anyone chose -- wanted to speak to somebody else  
02:26:22 5 other than me, then I would follow up with them and  
02:26:25 6 let them have corporate's number and, you know,  
02:26:28 7 whatever the situation would be, direct them  
02:26:33 8 where -- where to go or who to go to.

02:26:36 9 BY MS. AVLONI:

02:26:37 10 Q. Did you ever instruct Citistaff  
02:26:39 11 contractors that they are required to contact you in  
02:26:43 12 regards to any and all issues from payroll, to  
02:26:48 13 complaints, to how to do their job?

02:26:52 14 MR. RUTSCHMAN: Objection; vague and  
02:26:52 15 ambiguous. Compound.

02:27:00 16 THE WITNESS: As I said, anytime before I  
02:27:03 17 would dispatch them to the -- to the job site, I  
02:27:06 18 would let them know if they have any questions or  
02:27:08 19 concerns, they can give me a call or send me an  
02:27:11 20 e-mail.

02:27:12 21 BY MS. AVLONI:

02:27:13 22 Q. But you never told them that they're  
02:27:14 23 required to go to you instead of the client; is that  
02:27:17 24 correct?

02:27:18 25 MR. RUTSCHMAN: Objection; misstates the



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02:30:55 1 BY MS. AVLONI:

02:31:45 2 Q. Sitting here Today do you know if Rothaj  
02:31:47 3 Foster ever received any training on harassment?

02:31:51 4 MR. RUTSCHMAN: Objection; vague and  
02:31:51 5 ambiguous. Calls for speculation.

02:31:56 6 THE WITNESS: I know that Rothaj signed  
02:31:59 7 all policies of CitiStaff and read and signed any  
02:32:11 8 paperwork that -- that was given to us from  
02:32:16 9 nextSource -- nextSource paperwork that required  
02:32:24 10 to be signed and read.

02:32:25 11 BY MS. AVLONI:

02:32:25 12 Q. Do you know whether Rothaj Foster is  
02:32:28 13 black?

02:32:28 14 A. Yes, he is.

02:32:34 15 Q. When you terminated Owen Diaz, was he  
02:32:40 16 still a CitiStaff employee?

02:32:44 17 MR. RUTSCHMAN: Objection; lacks  
02:32:44 18 foundation. Misstates the witness' prior testimony.  
02:32:52 19 Calls for a legal conclusion.

02:32:58 20 THE WITNESS: So when Owen Diaz'  
02:33:00 21 assignment ended, he was still a contractor that was  
02:33:11 22 registered with us as CitiStaff. But he was no  
02:33:15 23 longer an employee working on an assignment at  
02:33:21 24 Tesla; at the facility, Tesla facility.

02:33:24 25 BY MS. AVLONI:

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04:17:06 1 Q. So CitiStaff essentially wouldn't get  
04:17:07 2 involved in any way unless something was brought to  
04:17:11 3 their attention; is that correct?

04:17:13 4 MR. RUTSCHMAN: Objection; misstates the  
04:17:14 5 witness' prior testimony. Calls for speculation.

04:17:19 6 BY MS. AVLONI:

04:17:19 7 Q. When it comes to complaints.

04:17:21 8 **A. When it comes to complaints? What is the**  
04:17:24 9 **question again?**

04:17:25 10 Q. Yeah. You know what? Scratch that  
04:17:27 11 question. I'm going to --

04:17:36 12 Joyce de la Grande. Have you ever heard  
04:17:38 13 of her?

04:17:38 14 **A. No.**

04:17:49 15 MS. AVLONI: I'm going to go ahead and  
04:17:51 16 introduce the next exhibit.

04:18:09 17 (Exhibit 88 marked.)

04:18:09 18 BY MS. AVLONI:

04:18:17 19 Q. Please take as much time as you need to  
04:18:20 20 fully review Exhibit 88.

04:20:26 21 **A. (Witness reviews document.)**

04:20:27 22 **Okay.**

04:20:28 23 Q. Have you ever seen this document before?

04:20:30 24 **A. Yes.**

04:20:33 25 Q. And if you look at the top portion of this

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04:20:41 1 document, is this an e-mail that you wrote to Wayne

04:20:45 2 Jackson?

04:20:49 3 **A. The first one? Yes.**

04:20:53 4 Q. And does this e-mail accurately reflect

04:20:58 5 what you recall writing to Wayne Jackson?

04:21:01 6 **A. Yes.**

04:21:01 7 Q. And -- and this e-mail is -- is this

04:21:17 8 e-mail related to the altercation between Rothaj

04:21:22 9 Foster and Owen Diaz that we earlier discussed?

04:21:26 10 **A. Yes.**

04:21:30 11 Q. And the e-mail below your e-mail where

04:21:33 12 it's stated as coming from Wayne Jackson to you, is

04:21:37 13 that an e-mail that you recall receiving from Wayne

04:21:41 14 Jackson?

04:21:41 15 **A. Yes.**

04:21:44 16 Q. That statement is accurate?

04:21:45 17 **A. Yes.**

04:21:49 18 MR. RUTSCHMAN: Belated objection that the

04:21:50 19 document speaks for itself.

04:21:57 20 BY MS. AVLONI:

04:21:58 21 Q. Do you see the name at the top of the

04:22:00 22 subject, it says Deb Griskey.

04:22:02 23 **A. For the bottom one on the first page?**

04:22:05 24 Q. Right on the top. It says Deb Griskey.

04:22:10 25 **A. Right here; right?**

MONICA DE LEON

December 6, 2018

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04:22:11 1 Q. Correct. Do you know who that is?

04:22:15 2 A. She was the main contact, like I had  
04:22:18 3 mentioned earlier, for Tesla after Nancy.

04:22:24 4 Q. So a nextSource. That's -- okay.

04:22:33 5 And when you received the e-mail from  
04:22:35 6 Wayne Jackson back on November 6 of 2015, do you  
04:22:39 7 recall reading the entire e-mail or the chain below  
04:22:45 8 it?

04:22:48 9 A. Yes.

04:22:59 10 Q. And when you read the e-mail -- actually,  
04:23:02 11 prior to receiving the e-mail on November 6, 10:21  
04:23:07 12 a.m., had you had any information regarding the  
04:23:11 13 altercation between Rothaj Foster and Owen Diaz?

04:23:13 14 A. Repeat the question?

04:23:16 15 Q. Prior to receiving the e-mail from Wayne  
04:23:17 16 Jackson on November 6 of 2015 at 10:21 a.m., did you  
04:23:23 17 have any information at all that there was an  
04:23:25 18 altercation between Rothaj and Owen?

04:23:28 19 A. No.

04:23:28 20 Q. That's the first time you learned about  
04:23:30 21 the altercation between Rothaj and Owen?

04:23:32 22 A. Yes.

04:23:33 23 Q. And then when you read the e-mail for  
04:23:38 24 Wayne Jackson, what were your immediate impressions  
04:23:46 25 about the altercation between Rothaj and Owen?

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**EXHIBITS TO DEPOSITION OF MONICA DELEON**  
**REDACTED – CONDITIONALLY FILED UNDER SEAL**

MONICA DE LEON  
December 6, 2018

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1 REPORTER'S CERTIFICATION

2

3 I, Heidi Belton, Certified Shorthand  
4 Reporter in and for the State of California, do  
5 hereby certify:

6

7 That the foregoing witness was by me duly  
8 sworn; that the deposition was then taken before me  
9 at the time and place herein set forth; that the  
10 testimony and proceedings were reported  
11 stenographically by me and later transcribed into  
12 typewriting under my direction; that the foregoing  
13 is a true record of the testimony and proceedings  
14 taken at that time.

15

16 IN WITNESS WHEREOF, I have subscribed my  
17 name on this date:

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*H. Belton*

Heidi Belton, CSR, RPR, CRR, CCRR, CRC  
CSR No. 12885

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## EXHIBIT H

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ,  
and LAMAR PATTERSON,

Plaintiffs,

vs.

No. 3:17-cv-06748-WHO

TESLA, INC., dba TESLA  
MOTORS, INC.; CITISTAFF  
SOLUTIONS, INC.; WEST VALLEY  
STAFFING GROUP; CHARTWELL  
STAFFING SERVICES, INC.;  
and DOES 1-50, inclusive,

Defendants.

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DEPOSITION OF VICTOR QUINTERO

June 7, 2018

Reported by:

Bridget M. Mattos, CSR No. 11410



VICTOR QUINTERO

June 7, 2018

1                   BE IT REMEMBERED that, pursuant to  
2   Notice of Taking Deposition, and on Thursday, June 7,  
3   2018, commencing at the hour of 3:06 p.m., before me,  
4   BRIDGET M. MATTOS, CSR No. 11410, there personally  
5   appeared

6  
7                   VICTOR QUINTERO,

8  
9   called as a witness by Plaintiff, who, having been  
10   duly sworn, was examined and testified as is  
11   hereinafter set forth.

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VICTOR QUINTERO

June 7, 2018

1 MR. ORGAN: Q. Mr. Quintero, am I saying it  
2 right?

3 A. Yes.

4 Q. How do you -- please spell your name for the  
5 record.

6 A. Q-U-I-N-T-E-R-O.

7 Q. Have you gone by any other names, other than  
8 Victor Quintero?

9 A. No.

10 Q. When did you start working for Tesla?

11 A. May 12, 19 -- 2014.

12 Q. Do you currently work for Tesla?

13 A. Yes.

14 MS. ANTONUCCI: Victor, just take a little  
15 breath between the question and the answer, so that I  
16 can object, if I have to.

17 THE WITNESS: Okay.

18 MR. ORGAN: Q. You have been designated as  
19 the person most knowledgeable on three topics. One is  
20 plaintiff Owen Diaz's work performance for defendant  
21 Tesla.

22 Do you understand that?

23 A. Work performance, yes.

24 Q. You've also been designated as the person  
25 most knowledgeable about any discipline issued to

VICTOR QUINTERO

June 7, 2018

1 MS. ANTONUCCI: Objection; vague, lacks  
2 foundation.

3 THE WITNESS: The scope of work would be part  
4 of the contract.

5 MR. ORGAN: Okay.

6 Q. But in terms of determining whether, you  
7 know, they work the -- were all of the elevator  
8 operators contract employees?

9 A. Yes.

10 Q. And were they -- did the contract employees  
11 who worked on the elevators, for example, they  
12 received Tesla training; correct?

13 MS. ANTONUCCI: Objection; calls for  
14 speculation.

15 THE WITNESS: They received training from  
16 their own shift supervisors and leads.

17 MR. ORGAN: Q. But they would also receive  
18 training on, like, what Tesla procedures were for  
19 safety; right?

20 MS. ANTONUCCI: Objection; vague, lacks  
21 foundation.

22 THE WITNESS: Everybody who works at Tesla,  
23 whether you're an employee or a contractor, has to  
24 take safety orientation class in order to work in the  
25 factory.

VICTOR QUINTERO

June 7, 2018

1 THE WITNESS: Yeah. Everybody has to have  
2 a -- PPE, yes.

3 MR. ORGAN: Q. Everybody at Tesla was  
4 subject to the PPE policies; correct?

5 **A. Yes.**

6 MS. ANTONUCCI: Objection; vague, lacks  
7 foundation.

8 Give me one second.

9 THE WITNESS: Sorry.

10 MS. ANTONUCCI: It's okay.

11 MR. ORGAN: Q. When you say "PPE policies,"  
12 what do you mean?

13 **A. Personal protective equipment.**

14 **Q. Everybody at Tesla was subject to the --**  
15 **whether they were a contractor or a regular Tesla**  
16 **employee -- was subject to the antidiscrimination**  
17 **policies; correct?**

18 **MS. ANTONUCCI: Objection; vague.**

19 **THE WITNESS: I don't work for HR, but I**  
20 **would imagine so. I mean, antidiscrimination is a**  
21 **federal law, so...**

22 **MR. ORGAN: Q. Tesla has a zero tolerance**  
23 **policy for harassment; right?**

24 **MS. ANTONUCCI: Objection; vague, calls for a**  
25 **legal conclusion.**

VICTOR QUINTERO

June 7, 2018

1 THE WITNESS: Yes, as far as I know.

2 MR. ORGAN: Q. There weren't two sets of  
3 rules, as far as you know, for the contractors, in  
4 terms of how they would report harassment versus how a  
5 regular employee would report harassment; am I right?

6 MS. ANTONUCCI: Objection; vague, lacks  
7 foundation.

8 THE WITNESS: I would imagine the contract  
9 companies have their own processes or procedures for  
10 how they report issues and problems.

11 MR. ORGAN: Q. But in terms of if a  
12 contractor, contract employee, reported an issue of  
13 harassment to a Tesla employee, that Tesla employee  
14 would have a responsibility to report that up the  
15 chain, wouldn't they?

16 MS. ANTONUCCI: Objection; vague, lacks  
17 foundation.

18 THE WITNESS: If they were to report it to  
19 one of my supervisors, yes, that supervisor would have  
20 a responsibility to escalate it.

21 MR. ORGAN: Q. Who were your supervisors?

22 A. At the time?

23 Q. In 2015 and '16.

24 A. Josue Torres, Jaime Salazar, Ed Romero,  
25 Andres Donet.

VICTOR QUINTERO  
June 7, 2018

1 State of California )

2 County of Marin )

3

4 I, Bridget M. Mattos, hereby certify  
5 that the witness in the foregoing deposition was by me  
6 duly sworn to testify to the truth, the whole truth  
7 and nothing but the truth in the within entitled  
8 cause; that said deposition was taken at the time and  
9 place herein named; that the deposition is a true  
10 record of the witness's testimony as reported to the  
11 best of my ability by me, a duly certified shorthand  
12 reporter and disinterested person, and was thereafter  
13 transcribed under my direction into typewriting by  
14 computer; that the witness was given an opportunity to  
15 read, correct and sign the deposition.

16 I further certify that I am not  
17 interested in the outcome of said action nor connected  
18 with or related to any of the parties in said action  
19 nor to their respective counsel.

20 IN WITNESS WHEREOF, I have hereunder  
21 subscribed my hand on June 7, 2018.

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BRIDGET M. MATTOS, CSR NO. 11410

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## EXHIBIT I

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ,  
and LAMAR PATTERSON,

Plaintiffs,

vs.

No. 3:17-cv-06748-WHO

TESLA, INC. Dba TESLA MOTORS,  
INC.; CITISTAFF SOLUTIONS,  
INC.; WEST VALLEY STAFFING  
GROUP; CHARTWELL STAFFING  
SERVICES, INC.; and DOES 1-50,  
inclusive,

Defendants.

\_\_\_\_\_/

DEPOSITION OF EDWARD ROMERO

November 30, 2018

Reported by:

Bridget M. Mattos, CSR No. 11410



EDWARD ROMERO

November 30, 2018

Page 5

1 BE IT REMEMBERED that, pursuant to  
2 Notice of Taking Deposition, and on November 30, 2018,  
3 commencing at the hour of 10:00 a.m., at CALIFORNIA  
4 CIVIL RIGHTS LAW GROUP, 332 San Anselmo Avenue, San  
5 Anselmo, California, before me, BRIDGET M. MATTOS, CSR  
6 No. 11410, there personally appeared

7

8 EDWARD ROMERO,

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10 called as a witness by Plaintiff, who, having been  
11 duly sworn, was examined and testified as is  
12 hereinafter set forth.

13 ---oOo---

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EDWARD ROMERO

November 30, 2018

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1 Q. Well, you received training on what is  
2 harassing or discriminatory conduct; right?

3 A. Correct.

4 Q. And would you agree if someone used the word  
5 "nigger" or "nigga" in the workplace, that would be  
6 inappropriate conduct; right?

7 A. In general, yes, it would be very  
8 inappropriate.

9 Q. Do you find those terms offensive?

10 A. I do.

11 Q. So instead of using "nigger" or "nigga," I'm  
12 going to use the "'N' word" okay?

13 A. Okay.

14 Q. Is that fair enough?

15 A. Yeah, because the other words kind of make me  
16 feel uncomfortable too.

17 Q. Sure. I bet they do.

18 So did you ever observe -- and I mean  
19 personally observe, not be told about -- but did you  
20 ever observe anyone using the "N" word at the Tesla  
21 factory when you were there?

22 A. No.

23 Q. Did you ever -- were you ever told or  
24 informed that someone was using the "N" word at the  
25 factory?

EDWARD ROMERO

November 30, 2018

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1           **A.    I was informed that there was language that**  
2           **offended someone or hurt someone's feelings, but I did**  
3           **not hear it directly.**

4           **Q.    And how many employees gave you**  
5           **information -- or strike that.**

6                   How many employees did you hear about who  
7           claimed to be offended or hurt by language at the  
8           Tesla factory?

9           **A.    I can only think of one.**

10          **Q.    And who is the one that you can think of?**

11          **A.    Owen Diaz.**

12          **Q.    And how did you know Owen Diaz?**

13          **A.    After I started working for Tesla, within a**  
14          **few weeks they asked me to help them with the elevator**  
15          **services.**

16          **Q.    So this was while you were at nextSource, or**  
17          **this is when you were at Tesla?**

18          **A.    This is when I became a Tesla employee.**

19          Q.    So that was sometime in October then of 2015?

20          **A.    I would say that in October, they were -- I**  
21          **was dealing more with kind of the recycling and being**  
22          **introduced into the elevator services.**

23          Q.    So sometime in October of 2015, or  
24          approximately October of 2015, you started taking over  
25          some responsibility for overseeing the elevators?

EDWARD ROMERO

November 30, 2018

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1 he looks, I'd probably say 50.

2 Q. Okay. Fair enough.

3 And your first interaction with Owen Diaz, do  
4 you remember what that was about?

5 A. It wasn't necessarily an interaction; it was  
6 more like observing him working there. He was working  
7 there as an elevator operator. If I remember  
8 correctly, he was a lead at that time.

9 Q. And what was the difference between a lead  
10 and someone else, on the elevator operators?

11 A. A lead was expected to assume more  
12 responsibility and making sure that product was moved  
13 properly and safely and that the crews were working in  
14 the same manner, using their PPE, and so on, and it  
15 was to be an individual who could have good  
16 interaction with other departments, other department  
17 heads, supervisors, elevator drivers, tugger drivers  
18 who came to the elevator.

19 We wanted an individual who could really  
20 interact and work closely with them, a cooperative  
21 spirit, not an angry person or somebody who, you know,  
22 couldn't get along with people. I would say  
23 typically, that's the difference.

24 Q. Did you promote Owen Diaz to a lead?

25 A. I think he was a lead already when I got

EDWARD ROMERO

November 30, 2018

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1     **there.**

2           Q.     Did you ever talk to Jamie Salazar about Owen  
3     Diaz?

4           **A.     Not to ask him the question specifically.**

5           Q.     Did you have any discussion with Jamie  
6     Salazar about Owen Diaz's attitude, or anything like  
7     that?

8           **A.     I can't say. I don't remember that.**

9           Q.     Tell me about your first impression relative  
10    to Owen Diaz when you observed him, when you took over  
11    responsibility for the elevator operators.

12           MS. ANTONUCCI: Vague.

13           THE WITNESS: You want to rephrase that a  
14    little bit or --

15           MR. ORGAN: Actually, let me go back to the  
16    lead thing.

17           Q.     So in terms of the lead position for the  
18    elevator operators, the elevator operator leads were  
19    expected to be more responsible; is that correct?

20           **A.     Yes.**

21           Q.     And the elevator operator leads were expected  
22    to be more responsible in terms of moving product; is  
23    that correct?

24           **A.     Moving it efficiently.**

25           Q.     Efficiently, yes.

EDWARD ROMERO

November 30, 2018

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1 And then you said that the elevator operator  
2 leads were also responsible for making sure that their  
3 crews used their PPEs?

4 A. Correct.

5 Q. And you said that the elevator operator leads  
6 also had to make sure that they had good interactions  
7 with other departments; right?

8 A. Correct. They had to have good  
9 communication, a spirit of cooperation, an ability to  
10 resolve issues that came along that might impede the  
11 movement of materials.

12 Q. Elevator operator leads were supposed to try  
13 and mitigate or reduce obstacles to getting product to  
14 move between the floors; correct?

15 A. Correct. And they had to have good  
16 interaction with the supervisors of the production --  
17 of the -- of the different departments bringing  
18 materials to the elevators.

19 In other words, if you have a lead -- because  
20 I wasn't there at the elevators all day long, I had  
21 other duties to do, and so on. But a good lead  
22 elevator operator, okay, would be able to communicate  
23 with people who came to him and said, for example,  
24 "I've got this material that's urgently needed in this  
25 part of the factory," and work it out to get that

EDWARD ROMERO

November 30, 2018

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1           **A.     I knew --**

2           **Q.     Let me just finish the question.**

3           **A.     Yeah.   Sorry.**

4           **Q.     In terms of your -- when you were the**  
5           **janitorial supervisor working for nextSource, during**  
6           **that time, you at least had some contact with the**  
7           **elevator 1 and 2 operators; correct?**

8           **A.     I can't say. All I can say is it was**  
9           **limited, in the sense that from that responsibility I**  
10          **had with nextSource, we only took trash down the**  
11          **elevator and some recycled products. I mean, some**  
12          **cleaning products that were going up and down. And**  
13          **that was not my responsibility to drive them down**  
14          **there and take them down the elevator.**

15          **Q.     Okay.**

16          **A.     That was -- the employees were doing that.**

17          **Q.     Then tell me about your impressions of Owen**  
18          **Diaz as time went on, when you became his -- when you**  
19          **took over responsibilities for overseeing elevators 1**  
20          **and 2.**

21          **A.     I would say that Owen -- I observed that he**  
22          **had a hard time getting along with people.**

23          **Q.     Was that all people or --**

24          **A.     I would say some people.**

25          **Q.     And who were the people who you observed Owen**

EDWARD ROMERO

November 30, 2018

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1 having a hard time getting along with?

2 A. I don't remember specific names, other than  
3 sometimes comments were made: Who is this guy? How  
4 come he's always upset?

5 You know, I'm just responding to your  
6 question about what my impression was.

7 Q. Yeah, I get that.

8 A. I made no decisions as to what I felt would  
9 be the ultimate result with anything. I wanted to  
10 work with Owen. I like to give everybody a fair  
11 chance. But there were some instances where people  
12 voiced that he was angry, or things like that.

13 Q. When you say "things like that," in addition  
14 to people voicing an opinion that Owen was angry, did  
15 they voice anything else to you?

16 A. That they didn't like the way he spoke to  
17 them.

18 Q. And do you remember any specifics as to what  
19 people said about what they didn't like about the way  
20 Owen Diaz spoke to them?

21 A. I can only speak of maybe one specific case.

22 Q. Okay. Tell me about the case.

23 A. Where he -- they accused him that he was  
24 gossiping about them behind their back; that he's  
25 divulging or gossiping about a relationship that two



EDWARD ROMERO

November 30, 2018

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1 operators about, I guess, some things with his  
2 personal life or his attitude, and, you know, that he  
3 didn't like his name being used by Owen. Okay? He  
4 didn't feel that it was proper.

5 Q. Well, how did he say that Owen was using his  
6 name in a way that he didn't like?

7 A. I think specifically and more so on how he --  
8 he was another elevator lead, by the way.

9 Q. Jesse was an elevator lead?

10 A. Yes, on the daytime.

11 Q. On the daytime. Okay.

12 A. He felt that Owen would bad-mouth him to  
13 other employees, and these people were going,  
14 supposedly, to Jesse and telling him.

15 Q. Okay. Jesse felt like Owen was saying  
16 negative things about the job that Jesse was doing on  
17 the day shift; right?

18 A. Right.

19 Q. Owen didn't say anything negative about Jesse  
20 personally; correct?

21 MS. ANTONUCCI: Objection; lacks foundation.

22 MR. ORGAN: Q. That you knew of.

23 A. I couldn't say specifically, but he was  
24 taking it personal.

25 Q. Jesse was taking it personally?

EDWARD ROMERO

November 30, 2018

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1 the elevators and went down to their area, and they  
2 were getting into some kind of discussion there.  
3 Okay? And that's when I heard that there was this  
4 discussion between them.

5 Q. And what did you hear about what the  
6 discussion was between Hilda and Owen?

7 A. About him not cooperating, and his overall  
8 attitude that -- I always question him: Why did you  
9 go down there if you're assigned here? Why did you go  
10 over there?

11 And he said, "Oh, I just went over there."  
12 It wasn't like he had a real good reason to go. Okay?

13 Q. Okay.

14 A. And then somehow -- and I'm only saying what  
15 Hilda told -- reported. She reported that he started  
16 making comments about that there was a relationship  
17 between her and Aaron, and she felt offended because  
18 she was married and the other guy was married, and she  
19 felt that her name was being tossed around in a bad  
20 way.

21 Q. Okay. Did you observe any of these  
22 statements yourself by Owen?

23 A. No. I wasn't there when they had that  
24 interaction.

25 Q. Did you confront Owen about whether or not he

EDWARD ROMERO

November 30, 2018

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1 MS. ANTONUCCI: Objection; vague and lacks  
2 foundation.

3 THE WITNESS: I reported it to the people  
4 that I needed to report it to.

5 MR. ORGAN: Q. And who did you report the  
6 interaction with Jesse to?

7 A. I think there's an email there, if I  
8 remember. And I can't remember every single detail,  
9 because we write so many emails throughout our lives  
10 anyway, but I think I reported it to Mr. Salazar and  
11 to Mr. Quintero.

12 Q. And what about the Hilda issue?

13 A. It was all part of the same issue.

14 Q. What's the timing of when you reported these  
15 issues to Quintero and Salazar?

16 A. You mean how many -- how much time did I let  
17 go by?

18 Q. Yeah.

19 Well, let's start it this way: When did  
20 Jesse bring to you his concerns about -- that Owen was  
21 bad-mouthing him?

22 A. I can't tell you the date. It had to be on  
23 or about the same time that these other complaints  
24 came in.

25 Q. So the complaints from Hilda and Jesse came

EDWARD ROMERO

November 30, 2018

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1 to you approximately the same time; is that right?

2 A. Yes.

3 Q. And was that right after you took over your  
4 responsibilities as supervising the elevator  
5 operators, or was it later?

6 A. It was during that transition time.

7 Q. So October of 2015 --

8 A. That was the transition time, yes.

9 MS. ANTONUCCI: Hold on. Let him finish his  
10 question.

11 MR. ORGAN: Q. So in approximately October  
12 2015, when you were taking over responsibilities for  
13 overseeing the elevator operators, that's the time  
14 period when Jesse and Hilda came to you making  
15 complaints about Owen Diaz; is that correct?

16 A. I think that Hilda called me because she was  
17 concerned about not being able to use the elevators,  
18 and then within a very short period of time, all these  
19 other things happened. Okay?

20 Q. And you think that --

21 A. But I can't remember if Jesse mentioned it a  
22 little bit before that or right after that time or a  
23 period after that. I don't remember.

24 Q. It wasn't too long between the Hilda and the  
25 Jesse --

EDWARD ROMERO

November 30, 2018

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1           **A. It was all, like, happening almost at the**  
2           **same time.**

3           Q. And your best recollection is that that  
4 occurred during the time that you were transitioning  
5 to take over supervising the elevator operators; is  
6 that right?

7           **A. Yes.**

8           Q. Did you talk to Owen about your concerns --  
9 or strike that.

10                   You did talk to Owen about the concerns that  
11 Jesse raised to you?

12           **A. Yes.**

13           Q. When did you talk to Owen about the concerns  
14 that Jesse raised?

15           **A. I would probably have to refer back to the**  
16 **email to remember that, because the email was written**  
17 **right as it happened, you know, as soon as it**  
18 **happened, and it would be more specific on, you**  
19 **know --**

20           Q. Okay. What's your best estimate of when that  
21 was?

22           **A. I don't know what you mean. You're talking**  
23 **about October? Are you talking about a specific time?**  
24 **What do you mean?**

25           Q. Yeah. What's your best estimate, in terms of

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1 was it October, November, December, 2015, 2016?

2 **A. I think it was during October.**

3 **Q. And then Hilda, what's your best estimate of**  
4 **when you talked to Owen Diaz about Hilda or the issues**  
5 **raised by Hilda?**

6 **A. Again, I'd like to refer back to the**  
7 **specifics on the email.**

8 **Q. I get that, but I'm asking you for your best**  
9 **memory now.**

10 **A. I can't remember.**

11 **Q. So it could have been 2016 when you talked to**  
12 **Hilda?**

13 **A. No.**

14 **Q. To Owen?**

15 **A. No, I can't remember during that month of**  
16 **October. Okay?**

17 **Q. Fair enough.**

18 **A. If this happened this day, this day, this**  
19 **day, I just don't have the dates.**

20 **Q. I get that. But your best memory is that you**  
21 **talked to Owen Diaz about the Jesse issues in October**  
22 **2015; right?**

23 **A. Yes.**

24 **Q. And your best memory is that you talked to**  
25 **Owen Diaz about the Hilda issues in October 2015;**

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1 correct?

2 A. On or about that time, yes.

3 Q. Let's talk about -- did you talk to Owen  
4 directly, or did you email him? How did you address  
5 the issues that Jesse raised with Owen Diaz?

6 A. If I remember correctly, it was Mr. Salazar  
7 and myself.

8 Q. Where did it happen?

9 A. I think it happened on or around the  
10 elevators, you know, that location. To my best  
11 recollection.

12 Q. What did you and Mr. Salazar say to Mr. Owen  
13 Diaz about what Jesse had raised?

14 A. Basically, how Jesse Leite felt. We gave him  
15 counsel as to, you know, it's not good to just say  
16 things to other people, because you could hurt  
17 somebody.

18 I'm going by the gist of what I remember, and  
19 how Jesse was hurt, and, you know, a lot of times --  
20 you know, like I mentioned earlier, sometimes we don't  
21 even know who left the materials, so why accuse  
22 somebody that they did it type thing.

23 Q. What did Mr. Owen Diaz say in response?

24 A. I think he realized that he could have maybe  
25 handled it differently.

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1           **A.    As far as I can remember, yes.**

2           Q.    And how did Owen Diaz seem to you, relative  
3 to things relating to Hilda? Did he admit that he had  
4 said things about Hilda and Aaron having some kind of  
5 relationship?

6           **A.    From what I remember, he recognized that he**  
7 **should have not done that. Okay?**

8           Q.    Okay.

9           **A.    And, yes, I think he did acknowledge that,**  
10 **you know, he would be more careful in the future about**  
11 **things like that.**

12          Q.    Did you give any kind of written verbal  
13 warning or written warning to Mr. Diaz, relative to  
14 his conduct?

15          **A.    I don't recall that. I can't remember right**  
16 **now.**

17          **Q.    Did you consider the issue handled at that**  
18 **point, after you and Mr. Salazar talked to Owen about**  
19 **Jesse and Hilda?**

20          **A.    I think that that specific issue was dealt**  
21 **with, and we do tell them that, you know, we didn't**  
22 **want to revisit that or go back to that, have that**  
23 **happen again, and I think he said that he was going to**  
24 **try not to have it happen again.**

25          Q.    And did Jesse complain to you later that it



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1 MS. ANTONUCCI: Do you think we could take a  
2 quick lunch break or --

3 MR. ORGAN: Yeah, sure.

4 MS. ANTONUCCI: Okay.

5 MR. ORGAN: Let's go off the record. It's  
6 12:28. We're going off the record.

7 (Lunch recess taken from  
8 12:28 p.m. to 1:10 p.m.)

9 ---oOo---

10 AFTERNOON SESSION

11 EXAMINATION BY MR. ORGAN (Continued)

12 MR. ORGAN: We're back on the record. The  
13 time is 1:23.

14 Q. What's the next thing you can remember after  
15 this incident with Jesse and Hilda?

16 A. I don't know what you mean, "the next thing."

17 Q. Yeah, that was a bad question. Sorry about  
18 that.

19 In terms of Mr. Diaz, Owen Diaz, what's the  
20 next thing you can recall that was an issue that you  
21 had to deal with relative to Owen Diaz?

22 A. I don't remember, as far as, like, the  
23 sequence chronologically.

24 Q. Okay. Well, tell me the other things that  
25 you recall. Even if you can't remember the chronology

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1 of them, tell me the other things you remember, in  
2 terms of issues that stood out for you, relative to  
3 Owen Diaz and any issues relating to the elevators  
4 or --

5 A. He had issues with other departments who made  
6 deliveries and pickups at the elevators. They  
7 complained numerous times about him not being  
8 cooperative, him not communicating, shutting down.  
9 They asked him questions, to the point of saying, "I  
10 don't want to talk to you anymore. From now on, you  
11 send emails to me," you know, things like that.

12 I think Joyce De La Grande was the manager of  
13 these people, you know, who brought the deliveries to  
14 the elevators and picked up, and they continued to  
15 complain about his overall attitude; that it was  
16 negative.

17 Q. Did you ever write up Owen Diaz for any of  
18 his attitude?

19 A. For that situation, I don't think I did,  
20 okay, because I was listening to both sides. I was  
21 trying to get to the bottom of it. You know, it was  
22 obvious that he wasn't cooperating at times. I told  
23 him, you know, "You need to think about what you do.  
24 Just try to, you know, work with them."

25 Q. Did you ever figure out what was going on

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1           A.    No, no, this was after Tesla. I called to  
2    see how he was doing, and he said, "Oh, by the way,  
3    next Saturday is my birthday. Do you want to come  
4    by?" So...

5           Q.    Okay. Now, at some point in time you became  
6    aware of some issues between Ramon Martinez and Owen  
7    Diaz; is that correct?

8           A.    Yes.

9           Q.    Tell me about that. What do you recall about  
10   that?

11          A.    I think there was an incident where Owen said  
12   that Ramon was at the entrance to the elevator, on a  
13   tugger, if I remember correctly, and that he got off  
14   of the tugger, went in, and -- and this is what Owen  
15   was telling me -- and that he was in his face, and he  
16   was mad, and he was upset, and he said he felt that  
17   that was inappropriate for Ramon to do that.

18          Q.    And did you talk to Ramon about it?

19          A.    No. He was not my employee. At that time,  
20   Mr. Salazar was their supervisor, so I reported it to  
21   him.

22          Q.    Did you ever have a discussion with Jesse  
23   Salazar about what he found?

24          A.    Other than just informing him that -- you  
25   know, what Owen had said.

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1           **A.    I saw a picture of it.**

2           Q.    And what did you think? Was it offensive?

3                   MS. ANTONUCCI: Objection; vague and calls  
4 for a legal conclusion.

5                   MR. ORGAN: Strike that.

6           Q.    Did you think that the drawing was offensive?

7                   MS. ANTONUCCI: Objection; vague, calls for  
8 speculation, legal conclusion.

9                   THE WITNESS: I would respond by saying that  
10 I took it serious that Owen felt offended.

11                  MR. ORGAN: Q. It was clear to you that Owen  
12 felt offended; right?

13           **A.    Yes.**

14           Q.    Did you actually talk to Owen about it?

15           **A.    Yes.**

16           Q.    And when Owen talked to you about it, what  
17 did he say?

18           **A.    He said that during the night, someone had**  
19 **drawn this picture on this pallet of cardboard going**  
20 **down, and that he took offense to it; that he felt bad**  
21 **by -- you know, he didn't know who did it at the time,**  
22 **and I guess after I spoke to him, he spoke to the**  
23 **recycle people, and it came out that Ramon had**  
24 **admitted to drawing the picture.**

25           Q.    And what happened next?

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1           **A.    I reported it to Victor Quintero, who was in**  
2           **charge of the recycling supervisors, and Ramon, who**  
3           **was a supervisor, or is.    I don't know if he still is**  
4           **or not.    And then I reported it to Wayne Jackson.**

5           Q.    Did you report the incident to Tesla HR?

6           **A.    I did not.**

7           Q.    Why not?

8           **A.    Because Ramon was not my employee.    I took it**  
9           **directly to the manager of the department, and he said**  
10          **that he would take care of it.**

11          Q.    Manager of the department being Victor  
12          Quintero; correct?

13          **A.    Correct.**

14          Q.    Anything else that you can recall about that  
15          interaction, or that incident regarding the picture?

16          **A.    No.**

17          Q.    Do you remember if Owen Diaz said why he was  
18          offended by the picture?

19          **A.    I don't recall.**

20          Q.    Owen Diaz made it clear to you, didn't he,  
21          that he felt like the picture was targeted to him  
22          because he was black; right?

23                MS. ANTONUCCI:   Objection; vague.

24                MR. ORGAN:   Q.    Or African-American.

25          **A.    I know there's a text, a copy of a text that**

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1 going to take. I will send another email on final  
2 decision we will make as a group."

3 Were you part of some group that was making a  
4 decision about what to do?

5 **A. No. I had assumed that he was referring to**  
6 **him looking into the matter and Jamie looking into the**  
7 **matter.**

8 Q. And you never conducted any kind of  
9 investigation into this issue relating to Judy  
10 Timbreza using any kind of racist words or racially  
11 offensive remarks towards Owen Diaz; correct?

12 **A. I don't remember. I don't think I made that**  
13 **type of investigation. It was kind of -- Tom did**  
14 **something; Jamie did something; they were talking to**  
15 **these people, and we were informed that the people**  
16 **denied hearing those remarks.**

17 MR. ORGAN: Okay. This will be Exhibit 43.

18 (Whereupon Deposition Exhibit 43

19 was marked for identification.)

20 MR. ORGAN: Q. Exhibit 43, for the record,  
21 is a one-page document, Bates-stamped Tesla 511.

22 **A. Okay.**

23 Q. Have you seen this email before?

24 **A. I did.**

25 Q. This was an email that you reviewed prior to

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1 coming today; correct?

2 A. Yes, mm-hm.

3 Q. This is an email you sent; is that correct?

4 A. It is.

5 Q. Why were you sending this email to Victor  
6 Quintero?

7 A. Just to keep him abreast of the accusations  
8 that had come up, okay, and he was the manager, so I  
9 felt he needed to know about it.

10 Q. In your email in Exhibit 43, you say, "We  
11 investigated by speaking to all witnesses present, but  
12 they said they did not hear the remarks."

13 So you were part of the investigation;  
14 correct?

15 A. Well, as the group effort, yes.

16 Q. That's why you said "we"; correct?

17 A. Yes.

18 Q. And then the next part of that sentence says,  
19 "Although more than one person agreed, Mr. Timbreza  
20 tendency to kid around excessively."

21 A. Mm-hm.

22 Q. So it at least appeared, based on the  
23 investigation that was conducted, that Mr. Timbreza  
24 had engaged in some inappropriate conduct; correct?

25 MS. ANTONUCCI: Objection; misstates

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1 testimony. Calls for speculation.

2 THE WITNESS: What was your question?

3 MR. ORGAN: Q. As part of the investigation  
4 of the group, the "we" that you refer to here --  
5 actually, who are the "we"?

6 A. Tamotsu, or Tom, okay, Jamie Salazar, were  
7 taking the lead on this.

8 Q. Tom and Jamie were taking the lead?

9 A. Yes, they were.

10 Q. What are you looking at there?

11 A. No, I thought it was something different than  
12 this (indicating).

13 MS. ANTONUCCI: It's the same.

14 THE WITNESS: It's the same.

15 MR. ORGAN: Q. So Tom and Jamie took the  
16 lead, but they kept you informed as part of their  
17 investigation; correct?

18 A. Yes, correct.

19 Q. Did they take notes, do you know?

20 A. I have no idea if they did.

21 Q. Did they give you summaries of the  
22 information that they learned?

23 A. I think Jamie Salazar said, "Ed, we talked to  
24 these people; they deny every hearing any of that."

25 Q. They denied hearing the specific racial



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1 terms; right?

2 A. That the witnesses denied hearing any racial  
3 slurs being made.

4 Q. But the witnesses also said that Mr. Timbreza  
5 had a tendency to kid around excessively.

6 A. Correct.

7 Q. Right?

8 And you had no basis to suggest or think that  
9 Owen Diaz was lying about this, did you?

10 A. No.

11 MS. ANTONUCCI: Objection; vague.

12 MR. ORGAN: Q. In fact, a verbal warning was  
13 issued to Mr. Timbreza, wasn't it?

14 A. It was for his kidding around excessively.

15 Q. Did it mention anything about racially  
16 offensive remarks?

17 A. I don't think that it did.

18 Q. Did you see this verbal warning that --

19 A. I don't remember.

20 Q. Let me finish the question.

21 A. Okay.

22 Q. Did you see the verbal warning that was  
23 issued to Mr. Timbreza?

24 A. I do not remember looking at it. I can't  
25 remember looking at it.

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1 Q. Well, you knew about what was in it, though;  
2 right?

3 A. Yes.

4 Q. Because the two people who looked into it,  
5 Tom and Jamie, they told you about the verbal warning;  
6 right?

7 A. I remember Jamie Salazar telling me about it.

8 Q. At that point in time, were you Jamie's boss?

9 A. I've never been Jamie's boss.

10 Q. Why were Tom and Jamie talking to you at all  
11 about this?

12 MS. ANTONUCCI: Calls for speculation.

13 THE WITNESS: I don't know.

14 MR. ORGAN: Q. Why were you involved in this  
15 investigation in this point in time, if you weren't  
16 Tom and Jamie's supervisor?

17 A. When I got hired -- I'll say it again.

18 When I got hired by nextSource and  
19 interviewed by nextSource and Victor Quintero, Victor  
20 Quintero must have seen something in me that he  
21 thought would be good for Tesla, okay, so I got hired  
22 on as a janitorial supervisor. But being that he felt  
23 that he was going to be losing me in the near future  
24 in his group, he wanted me to start knowing what they  
25 do in recycling and the other janitorial areas. Okay?

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1 not a lead or supervisor.

2 Q. That's what I said. I thought I said that.

3 A. No, I understood it differently.

4 Q. Judy Timbreza was just an elevator operator?

5 A. Correct.

6 Q. And then Tom Kawasaki was the lead above

7 Mr. Timbreza; is that correct?

8 A. Correct.

9 Q. And then Jamie was the supervisor for the

10 elevator operators and the leads; correct?

11 A. Correct.

12 Q. So if I have the progression right, you have

13 Timbreza is just an elevator operator, just a worker;

14 right?

15 A. Yes.

16 Q. And then his immediate supervisor is Tom

17 Kawasaki --

18 A. Yes.

19 Q. -- the lead; correct?

20 A. Yes.

21 Q. And then Tom Kawasaki's supervisor is the

22 elevator supervisor, who was Jamie Salazar; is that

23 correct?

24 A. Yes.

25 Q. And then who was above Jamie Salazar at that

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1 point in time?

2 **A. Victor Quintero.**

3 Q. So at this time, when you wrote this email,  
4 Victor Quintero was Jamie Salazar's supervisor;  
5 correct?

6 **A. Yes.**

7 Q. And then eventually, you took over those  
8 supervisor roles when you transitioned to a Tesla  
9 employee; is that right?

10 **A. Yes.**

11 Q. Let's go back to this.

12 It says, "We have given Mr. Timbreza a verbal  
13 warning and explained his need to treat his fellow  
14 team members with dignity and respect."

15 The conclusion was, in the verbal warning,  
16 that Mr. Timbreza had not treated his fellow team  
17 members with dignity and respect; correct?

18 **A. Yes.**

19 Q. And in fact, if Mr. Timbreza engaged in any  
20 similar conduct, he was going to be terminated; right?

21 **A. Yes.**

22 Q. It says here, "We have his signed verbal  
23 notice filed in the nextSource office."

24 Do you know what that's referring to?

25 **A. I do not.**

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1           **A.    Yes.**

2                   MR. ORGAN:   Let's mark this as Exhibit 53.

3                   (Whereupon Deposition Exhibit 53

4                   was marked for identification.)

5                   MR. ORGAN:   Q.   Exhibit 53, for the record,

6                   is a one-page document, Bates-stamped Tesla 308.

7                   So this was an email that you sent to Victor

8                   Quintero with a copy to Jamie Salazar down at the

9                   bottom.   This is -- I think you've already testified a

10                  bit about the tension or problems that were going on

11                  between Hilda, Aaron and Jesse and Owen Diaz; correct?

12                  **A.    Yes.**

13                  Q.    Does this refresh your recollection on any

14                  more details?   Exhibit 53, does it refresh your

15                  recollection about any more details?

16                  **A.    No.   I think it's covered on the things I**

17                  **mentioned before.**

18                  Q.    In the meeting that you had with Owen Diaz,

19                  it says here, down on Number 5, that Mr. Diaz agreed

20                  that he needed to stop his conduct and make

21                  improvements; right?

22                  **A.    Yes.**

23                  Q.    And he said he'd try to take steps to improve

24                  his relationship with others, including Jesse; right?

25                  **A.    Yes.**

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1           **A.     Hilda was the same person that he had had a**  
2           **problem with two or three weeks prior.**

3           Q.     Okay. So it appears, at least as of this  
4           October 15th date, that Hilda and Owen Diaz are  
5           getting along better, doesn't it?

6           **A.     I had no reason to believe that any further**  
7           **problems had occurred, because I didn't hear of any.**

8           Q.     And it looks like they are cooperating, Hilda  
9           and Owen are cooperating to try and cover a  
10          short-staffing situation; correct?

11          **A.     Yes. Victor says that he had spoke to Israel**  
12          **and Hilda about cooperating, and they agreed.**

13          Q.     Now, at this point in time, October 15th and  
14          October 19th, you are now a Tesla employee; correct?

15          **A.     Yes.**

16               MR. ORGAN: Let's make this next in line,  
17               which is 55.

18               (Whereupon Deposition Exhibit 55  
19               was marked for identification.)

20               MR. ORGAN: Q. Exhibit 55, for the record,  
21               is a one-page document. I can't tell what the Bates  
22               number is because that got cut off, but it's a series  
23               of emails from October 17th, 2015, until October 19th  
24               of 2015, where the subject line is Owen. And the  
25               bottom email, so the first in time is an email from

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1 Ramon Martinez to you.

2 Do you see that?

3 A. Mm-hm. Yes, I do.

4 Q. And then there's an email from you to Josue  
5 Torres, where you tell Josue that you were going to  
6 investigate that then, October 17th; correct?

7 A. Yes. Mm-hm.

8 Q. Now, when you investigated, you actually  
9 found that Mr. Diaz was complaining about  
10 Mr. Martinez; correct?

11 A. Ask that question again.

12 Q. Yeah.

13 Did you investigate this complaint by Ramon  
14 Martinez?

15 A. I don't remember what the investigation  
16 outcome was, and I'm being honest. I don't remember  
17 what it was. Okay?

18 Q. I understand that. My question is whether  
19 you investigated it or not.

20 A. I think that I did.

21 Q. Yeah, because you say here, "I will  
22 investigate this today."

23 A. Correct.

24 Q. Okay. When you did investigate, you actually  
25 got information that Ramon Martinez had engaged in

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1 inappropriate threatening conduct, didn't you?

2 MS. ANTONUCCI: Objection; misstates prior  
3 testimony. And it's an improper conclusion.

4 THE WITNESS: I would have to look to see  
5 what you're referencing to, because I don't  
6 remember -- I can't remember right now, you know, what  
7 transpired after this, and who said what. I don't  
8 remember.

9 MR. ORGAN: Q. What was your relationship  
10 with Ramon Martinez?

11 **A. I don't know him, other than seeing him as**  
12 **part of the recycling team.**

13 Q. Did you ever socialize with Mr. Martinez?

14 **A. Never.**

15 Q. Approximately how old was Ramon Martinez?

16 **A. My estimated guess would be probably late**  
17 **40s.**

18 Q. You had information that Mr. Martinez did not  
19 get along with Mr. Diaz correct?

20 MS. ANTONUCCI: Objection; calls for  
21 speculation. Vague.

22 THE WITNESS: Only on the matters that had  
23 come to light on them having problems.

24 **MR. ORGAN: Q. Mr. Martinez, in this email,**  
25 **alleged that Owen Diaz was not acting in a**



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1 professional way with him; correct?

2 A. Correct.

3 Q. And you also had information that Owen Diaz  
4 claimed that Mr. Martinez acted in an unprofessional  
5 way with Mr. Diaz; correct?

6 MS. ANTONUCCI: Objection.

7 THE WITNESS: I think that going on the --

8 MS. ANTONUCCI: Objection; vague, calls for a  
9 legal conclusion, misstates testimony.

10 MR. ORGAN: Q. Keep going. What were you  
11 going to say?

12 A. That's all.

13 MR. ORGAN: I'm sorry. Can you read back his  
14 answer?

15 (Record read as follows:

16 "ANSWER: I think that going on the --")

17 MS. ANTONUCCI: Can you read back the  
18 question?

19 MR. ORGAN: Yes.

20 (Record read as follows:

21 "QUESTION: And you also had information that  
22 Owen Diaz claimed that Mr. Martinez acted in an  
23 unprofessional way with Mr. Diaz; correct?

24 "MS. ANTONUCCI: Objection.

25 "THE WITNESS: I think that going on the --")

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1 MR. ORGAN: Q. You think what?

2 A. I don't remember what I was going to say.

3 Q. Did you get a statement from Ramon Martinez?

4 A. I don't recall the whole situation; you know,  
5 I don't have -- other than this email saying that he's  
6 complaining about Owen, I have nothing else to go on.

7 MR. ORGAN: Okay. Let's make this 56.

8 (Whereupon Deposition Exhibit 56

9 was marked for identification.)

10 MR. ORGAN: Q. Exhibit 56, for the record,  
11 is a two-page document, Bates-stamped Tesla 135 and  
12 136, and it's a -- something sent from an iPhone to Ed  
13 Romero and Tom Kawasaki, from Owen Diaz, at 6:08 a.m.

14 Did you receive this?

15 A. I remember seeing this, yes.

16 Q. You understood that Mr. Owen Diaz was  
17 complaining that Ramon Martinez had yelled at him in a  
18 threatening manner; right?

19 A. That is what Owen said.

20 Q. And Owen said -- Owen Diaz also said that he  
21 didn't feel safe around Ramon Martinez; right? Is  
22 that right?

23 A. That's what I understood.

24 Q. Okay. And then it says, above that, there's  
25 an email from Wayne Jackson, where it says -- this is

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1 on the first page of Exhibit 56, here is Ramon's  
2 statement: "I'm waiting for Rathaj and Ramon to send  
3 me theirs. Ed has a meeting scheduled with them  
4 Wednesday at 6:00 p.m. that I will be attending with  
5 them."

6 Did you have a meeting with Rathaj and Ramon  
7 and Wayne Jackson?

8 **A. No, I don't think that I did. I think it was**  
9 **referred to Wayne Jackson.**

10 Q. So when Wayne Jackson says in this email of  
11 October 20th, "Ed has a meeting scheduled with them  
12 for Wednesday at 6:00 p.m." --

13 **A. I see it.**

14 Q. -- you're saying that meeting didn't occur?

15 **A. I don't remember being in that meeting.**

16 Q. Did you ever get a copy of Ramon's statement?

17 **A. I think I did, and it was forwarded to Wayne**  
18 **Jackson.**

19 Q. Okay.

20 **A. Or given to him. I don't remember how that**  
21 **was.**

22 Q. You received Ramon's statement, and then you  
23 remember forwarding it to Wayne Jackson; is that  
24 correct?

25 **A. I think that would have been the action I**

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1 this incident?

2 MS. ANTONUCCI: Objection; vague.

3 MR. ORGAN: Q. I'm just wondering, did it  
4 appear to you that Mr. Owen Diaz followed the correct  
5 procedure here with respect to this incident and the  
6 elevator?

7 A. I think that he looked into it appropriately.

8 Q. And I guess Rathaj Foster was then  
9 terminated; is that right?

10 A. I don't recall if he was terminated because  
11 of this. This was -- as you notice, it was -- I think  
12 we included Wayne Jackson as part of this.

13 MR. ORGAN: Okay. Let's make this 64.

14 (Whereupon Deposition Exhibit 64

15 was marked for identification.)

16 MR. ORGAN: Q. Exhibit 64, for the record,  
17 is a two-page document -- three-page document,  
18 Bates-stamped City Staff 11 through 13. And the  
19 subject matter is termination of Rathaj foster.

20 This was Mr. Foster engaged in threatening  
21 conduct towards Owen Diaz; right?

22 A. Yes.

23 MS. ANTONUCCI: Objection; vague.

24 MR. ORGAN: Q. Well, that was your  
25 understanding; that Rathaj Foster was removed from

EDWARD ROMERO

November 30, 2018

Page 198

1 Tesla on November -- I guess it was 5th, because he  
2 was conducting himself in a threatening manner against  
3 Owen Diaz?

4 MS. ANTONUCCI: Objection; vague, calls for  
5 speculation.

6 MR. ORGAN: Q. Your understanding -- the  
7 question is, your understanding was that Mr. Foster  
8 had conducted himself in a way where he threatened  
9 Owen Diaz; right?

10 MS. ANTONUCCI: Take your time to read the  
11 document. Have you read all of it?

12 THE WITNESS: Did I.

13 MS. ANTONUCCI: Even the second page?

14 THE WITNESS: I did, yes. I did.

15 MS. ANTONUCCI: Objection; vague, lacks  
16 foundation.

17 MR. ORGAN: Well, let's just establish the  
18 foundation.

19 Q. You wrote that email on Page 2; right?

20 A. I did.

21 Q. That's an email you wrote on November 6th at  
22 12:12 a.m., to Wayne Jackson; right?

23 A. Yes.

24 Q. You copied it to Victor Quintero and Jamie  
25 Salazar; right?

EDWARD ROMERO

November 30, 2018

Page 199

1           **A.    Yes.**

2           **Q.    And in that, you mentioned that Rathaj Foster**  
3           **had been removed the previous night at 10:00 p.m. from**  
4           **the Tesla premises; right?**

5           **A.    He was removed to avoid any more friction**  
6           **that day between him and Owen.**

7           **Q.    Right.**

8                   And you had -- you first got a report where  
9           Mr. Foster was making a claim about not being able to  
10          take a break; correct?   That's what Mr. Foster was  
11          claiming.

12          **A.    He did.   And there's other information that**  
13          **Wayne -- I mean -- Wayne.   And I don't remember where**  
14          **it is, but Owen was -- I don't know if these are**  
15          **referring to the same night, that he asked Rathaj to**  
16          **go -- to wait to take his break.**

17          **Q.    And that was because they were short-staffed;**  
18          **right?**

19          **A.    Correct.   It could be that, or it could be**  
20          **that there was a lot of production material to move.**

21          **Q.    But Owen told you that Mr. Foster said, "You**  
22          **better watch your car," or something like that;**  
23          **correct?**

24          **A.    He did say that.**

25          **Q.    And then you interviewed someone else who was**

EDWARD ROMERO

November 30, 2018

Page 200

1 present; right? Jordano Ramirez.

2 A. Jordan?

3 Q. If you look at the bottom of the second page  
4 of Exhibit 64, you'll see that you interviewed Jordano  
5 Ramirez; right?

6 A. Show me where that's at.

7 Q. Actually, you've got a written statement from  
8 him; correct?

9 A. Yes.

10 Q. And he wrote in his statement that he  
11 witnessed Rathaj foster conducting himself in a  
12 threatening manner towards Owen Diaz; right?

13 A. Mm-hm.

14 Q. So you were the one who called security and  
15 explained the situation; right?

16 A. I did.

17 Q. You were the one that had Mr. Foster removed  
18 from the premises; right?

19 A. Yes.

20 Q. Because you had corroboration that Mr. Foster  
21 was threatening Mr. Diaz; right?

22 A. Yes.

23 Q. And that was inappropriate conduct; right?

24 A. It was. I took it very serious when anybody  
25 made any threats toward anybody else.

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**EXHIBITS TO DEPOSITION OF EDWARD ROMERO**  
**REDACTED – CONDITIONALLY FILED UNDER SEAL**



EDWARD ROMERO  
November 30, 2018

Page 214

1 State of California )

2 County of Marin )

3

4 I, Bridget M. Mattos, hereby certify  
5 that the witness in the foregoing deposition was by me  
6 duly sworn to testify to the truth, the whole truth  
7 and nothing but the truth in the within entitled  
8 cause; that said deposition was taken at the time and  
9 place herein named; that the deposition is a true  
10 record of the witness's testimony as reported to the  
11 best of my ability by me, a duly certified shorthand  
12 reporter and disinterested person, and was thereafter  
13 transcribed under my direction into typewriting by  
14 computer; that the witness was given an opportunity to  
15 read, correct and sign the deposition.

16 I further certify that I am not  
17 interested in the outcome of said action nor connected  
18 with or related to any of the parties in said action  
19 nor to their respective counsel.

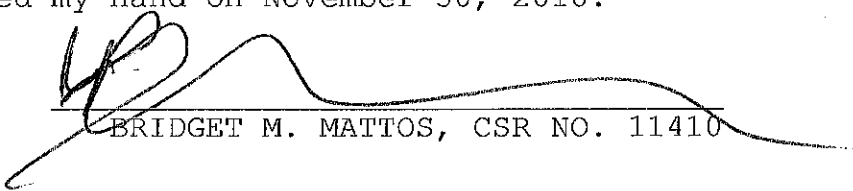
20 IN WITNESS WHEREOF, I have hereunder  
21 subscribed my hand on November 30, 2018.

22

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BRIDGET M. MATTOS, CSR NO. 11410

Bridget Mattos & Associates  
(415) 747-8710

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## EXHIBIT J

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

--oOo--

DEMETRIC DIAZ, OWEN DIAZ AND	)	
LAMAR PATTERSON,	)	
	)	
Plaintiffs,	)	CASE NO.
	)	3:17-cv-06748-WHO
vs.	)	
	)	
TESLA, INC., DBA TESLA MOTORS,	)	
INC.; CITISTAFF SOLUTIONS, INC.;	)	
WEST VALLEY STAFFING GROUP;	)	
CHARTWELL STAFFING SERVICES,	)	
INC.; AND DOES 1-50, INCLUSIVE,	)	
	)	
Defendants.	)	
_____	)	

VIDEOTAPED DEPOSITION OF TAMOTSU KAWASAKI

DATE: OCTOBER 9, 2019  
TIME: 2:05 P.M.  
LOCATION: CALIFORNIA CIVIL RIGHTS LAW GROUP  
180 GRAND AVENUE, SUITE 1380  
OAKLAND, CALIFORNIA

REPORTED BY: ANGIE M. MATERAZZI  
Certified Shorthand Reporter  
License No. 13116

TAMOTSU KAWASAKI  
October 9, 2019

1 He's not a certified court -- videographer.

2 MR. ARANEDA: NextSource joins.

3 MS. KUMAGAI: Same as CitiStaff.

4 MR. ORGAN: Okay. And I'm Larry Organ for the  
5 Plaintiff.

6 Will the court reporter please swear the  
7 witness.

8

9 TAMOTSU KAWASAKI

10

11 called as a witness by the Plaintiffs, who, having been  
12 first duly sworn, was examined and testified as follows:

13 --oOo--

14 EXAMINATION BY MR. ORGAN

15 Q. Could you please state your full name for the  
16 record.

17 A. **Tamotsu Edwin Kawasaki.**

18 Q. And you also go by --

19 A. **Tom.**

20 Q. -- Tom?

21 A. **It's just real easier and more American for**  
22 **people to pronounce. I hate when people butch my name,**  
23 **so.**

24 Q. How do you spell --

25 A. **T-A-M-O-T-S-U, Ta mot su.**

TAMOTSU KAWASAKI  
October 9, 2019

1 In terms of your getting the job at -- at  
2 Tesla, it sounds like you applied through Chartwell; is  
3 that right?

4 A. That was the staffing company. I applied  
5 for -- so I had my resume on Indeed and then it pinged  
6 and I went for an interview and they told me they had  
7 positions open at Tesla. Okay. I mean, I -- I'm  
8 working for a staffing company, so my employer is not  
9 Tesla, though.

10 Q. Okay. And how long did you work for Chartwell  
11 at the Tesla factory?

12 A. I want to say roughly 'til mid -- what is it?  
13 I've been four-and-a-half years in the union. What is  
14 that? Roughly 'til -- I guess it had to have been  
15 before that. Roughly 'til 20- -- early 2015, maybe  
16 March, April 2015. I'm not sure. I was working two  
17 jobs at the time.

18 Q. Okay.

19 A. So...

20 Q. What was the other job you were working?

21 A. So I'm an actual -- I'm in the Plumbers Union,  
22 Local 38, San Francisco, so that's the day job and then  
23 I was supervisor at night.

24 MS. JENG: Could you maybe tell us --

25 THE WITNESS: Local 38, Plumbers Union,

TAMOTSU KAWASAKI  
October 9, 2019

1     **guys are coming at me, so.**

2           Q.     I understand that. I -- I appreciate that.  
3     Thank you -- thank you for coming today.

4           **A.     Uh-huh.**

5           Q.     Now, when you started working at the Tesla  
6     factory through Chartwell, what -- what was your first  
7     job?

8           **A.     Cardboard organizer -- I don't know what you**  
9     **would call it. I was just pretty much throwing**  
10    **cardboard into bails at certain sections in the**  
11    **warehouse and it would be a different section, as**  
12    **staffing needed.**

13          Q.     Okay. And that was in the Recycling  
14    Department?

15          **A.     Yes. Environmental Sustainability.**

16          Q.     Okay. So the department you worked in was  
17    called Environmental Sustainability.

18          **A.     (No audible response.)**

19          Q.     And who was your supervisor when you first  
20    started?

21          **A.     Javi -- Javi. I think his name is Javi.**

22          Q.     Okay.

23          **A.     Javier, is his real name, I think.**

24          Q.     Do you remember his last name, by any chance?

25          **A.     I can look it up on LinkedIn, I think.**

TAMOTSU KAWASAKI  
October 9, 2019

1           **A.**    Not in different areas, no. So I was just a  
2   lead in my area. So it was just pretty much telling --  
3   letting the bosses know that, hey, this person didn't  
4   show up.

5           Q.    Okay.

6           **A.**    Or we need -- which would be Javi.

7           Q.    Javi was your boss?

8           **A.**    (No audible response.)

9           Q.    Okay. And then do you remember who was above  
10   Javi?

11          **A.**    I believe his boss was Victor Quintero.

12          Q.    Okay. Do you know whether Javi worked for  
13   Chartwell too or whether he worked for Tesla?

14          **A.**    He was a --

15               MS. JENG: Objection, calls for speculation.

16               THE WITNESS: He was a Tesla employee.

17   BY MR. ORGAN:

18          Q.    Okay. So your supervisor, Javi, was a Tesla  
19   employee; is that right?

20          **A.**    Correct.

21          Q.    And how long were you a lead in Environmental  
22   Sustainability?

23          **A.**    From that point on. I mean, I didn't drop  
24   from position. You don't go backwards, right?

25          Q.    Okay. Did you get a promotion from the lead

TAMOTSU KAWASAKI  
October 9, 2019

1 Q. Were any of the people who actually reported  
2 to you as the lead, were any of those people regular  
3 Tesla employees?

4 A. No.

5 Q. Okay. And what was your reporting  
6 relationship with Ed Romero?

7 A. Ed Romero came in -- as I was promoted to  
8 elevator lead, he came in and they just told me that he  
9 was our new middleman, so we go through Ed and then Ed  
10 would in turn go to Javi or Victor for us.

11 Q. Did you know a man named Jaime Salazar?

12 A. Oh, so I got the name wrong. It is Jaime.  
13 That is his name, Jaime. It's Jaime Salazar. That's  
14 right under -- Victor Quintero.

15 Q. That's the --

16 A. -- Victor Quintero. Yes, correct.

17 Q. Okay, okay.

18 A. Sorry.

19 Q. That's okay. So when you testified Javi, you  
20 meant Jaime Salazar; is that right?

21 A. Yes, correct.

22 Q. Okay. That's right. I mean, I -- I have the  
23 benefit of having documents, which I know you don't and  
24 I know it's been a while, so I appreciate -- appreciate  
25 anything you can remember.



TAMOTSU KAWASAKI  
October 9, 2019

1                   Okay. So -- so throughout the time that you  
2   were in Environmental Sustainability, you reported to  
3   Jaime Salazar; is that correct?

4           **A.     Correct.**

5           **Q.     And did Mr. Salazar then report up to Victor**  
6   **Quintero? Do you know what that reporting relationship**  
7   **was?**

8           **A.     From my knowledge, that was the chain of**  
9   **command.**

10          **Q.     Okay.**

11          **A.     It was Jaime and then Victor was above him and**  
12   **then that's as far as I got it.**

13          **Q.     Okay.**

14          **A.     Of my knowledge, Victor was the top of**  
15   **Environmental Sustainability.**

16          **Q.     Okay. So in terms of the person who was**  
17   **overall in charge of Environmental Sustainability,**  
18   **including the elevator area, that was Victor Quintero,**  
19   **as far as you knew, right?**

20          **A.     To my knowledge, yes.**

21          **Q.     And -- and under Victor was Jaime Salazar; is**  
22   **that right?**

23          **A.     Correct.**

24          **Q.     And then under Jamie Salazar, Ed Romero came**  
25   **in at some point; is that correct?**

1 son got a job here and was working on the production  
2 line. I said, Okay, well, good for you.

3 Q. Do you know how Mr. Demetric Diaz got a job at  
4 Tesla?

5 A. I do not.

6 Q. Did Owen ever ask you whether there was job  
7 openings at Tesla for either his son or any of his  
8 friends?

9 A. Owen asked how I got in and I told him I got  
10 through Chartwell. I said, If you want a job, go to  
11 Chartwell. If you need somebody that has a job, go to a  
12 staffing company, that's who's bringing it in. I mean,  
13 at that -- I think I applied for a actual full-time job  
14 at Tesla, but applied online, and didn't get anything,  
15 so I --

16 Q. Do you know who Mr. Judy Timbreza's employer  
17 was?

18 A. I think it was Chartwell, like me, I think.  
19 I -- I don't know. Like I said, those concerns aren't  
20 anything to do with me. That's people's personal lives.  
21 I don't know how they get there.

22 Q. Do you know who Mr. Martinez -- Ramon  
23 Martinez's employer was?

24 A. I -- I'm assuming Chartwell like me. I --  
25 'Til they tell me who their employer is, I'm assuming

TAMOTSU KAWASAKI

October 9, 2019

1 CERTIFICATE OF DEPOSITION OFFICER

2

3 I, ANGIE M. MATERAZZI, CSR No. 13116, duly  
4 authorized to administer oaths Pursuant to Section  
5 2093(b) of the California Code of Civil Procedure,  
6 hereby certify that the witness in the foregoing  
7 deposition was by me duly sworn to testify the truth,  
8 the whole truth and nothing but the truth in the  
9 within-entitled cause; that said deposition was taken at  
10 the time and place therein stated; that the testimony of  
11 the said witness was reported by me and thereafter  
12 transcribed by me or under my direction into  
13 typewriting; that the foregoing is a full, complete and  
14 true record of said testimony; and that the witness was  
15 given an opportunity to read and correct said deposition  
16 and to subscribe the same.

17 I further certify that I am not of counsel nor  
18 attorney for either or any of the parties in the  
19 deposition and caption named, or in any way interested  
20 in the outcome of the cause named in said caption.

21 I hereby certify this copy is a true and  
22 exact copy of the original.

23

\_\_\_\_\_  
ANGIE M. MATERAZZI, CSR 13116

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25 Date: \_\_\_\_\_

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## EXHIBIT K

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ, and  
LAMAR PATTERSON,

Plaintiffs,

No. 3:17-cv-06748-WHO

vs.

TESLA, INC. Dba TESLA MOTORS,  
INC.; CITISTAFF SOLUTIONS,  
INC.; WEST VALLEY STAFFING  
GROUP; CHARTWELL STAFFING  
SERVICES, INC.; NEXTSOURCE,  
INC.; and DOES 1-50,  
inclusive,

Defendants.

\_\_\_\_\_ /

DEPOSITION OF ANNALISA HEISEN

May 29, 2019

Reported by:

Bridget M. Mattos, CSR No. 11410

ANNALISA HEISEN

May 29, 2019

1 BE IT REMEMBERED that, pursuant to  
2 Notice of Taking Deposition, and on May 29, 2019,  
3 commencing at the hour of TIME a.m., at California  
4 Civil Rights Group, 332 San Anselmo Avenue, San  
5 Anselmo, California 94960, before me, BRIDGET M.  
6 MATTOS, CSR No. 11410, there personally appeared

7

8 ANNALISA HEISEN,

9

10 called as a witness by Plaintiff, who, having been  
11 duly sworn, was examined and testified as is  
12 hereinafter set forth.

13 ---oOo---

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1 complaint?

2       **A. I don't recall when Mr. Quintero was**  
3 **notified. I know that nextSource was looped in and**  
4 **that Ed Romero spoke with people in the area during**  
5 **the incident and had gathered information.**

6       **Q. Judy Timbreza, was that a Tesla employee, or**  
7 **was Judy Timbreza a contract employee?**

8       **A. A contract employee.**

9       Q. And do you know what happened to  
10 Mr. Timbreza, in terms of his employment?

11       **A. As far as his employment is concerned?**

12       Q. Yes.

13       **A. I don't know of anything related to this.**

14       Q. Relative to Mr. Owen Diaz's complaint about  
15 Mr. Judy Timbreza using an offensive racial comment  
16 towards him Mr. Diaz, do you know whether or not that  
17 was substantiated or not?

18       **A. My understanding is that the comment wasn't**  
19 **substantiated. Mr. Romero spoke to witnesses in the**  
20 **area, and none of them could confirm hearing the**  
21 **comment, or they didn't hear the comment.**

22       Q. Do you remember what Judy Timbreza said, in  
23 terms of his perspective of the interaction with  
24 Mr. Owen Diaz?

25       **A. I didn't see a specific response from Judy.**

ANNALISA HEISEN

May 29, 2019

1 State of California )

2 County of Marin )

3

4 I, Bridget M. Mattos, hereby certify  
5 that the witness in the foregoing deposition was by me  
6 duly sworn to testify to the truth, the whole truth  
7 and nothing but the truth in the within entitled  
8 cause; that said deposition was taken at the time and  
9 place herein named; that the deposition is a true  
10 record of the witness's testimony as reported to the  
11 best of my ability by me, a duly certified shorthand  
12 reporter and disinterested person, and was thereafter  
13 transcribed under my direction into typewriting by  
14 computer; that the witness was given an opportunity to  
15 read, correct and sign the deposition.

16 I further certify that I am not  
17 interested in the outcome of said action nor connected  
18 with or related to any of the parties in said action  
19 nor to their respective counsel.

20 IN WITNESS WHEREOF, I have hereunder  
21 subscribed my hand on May 29, 2019.

22

23 BRIDGET M. MATTOS, CSR NO. 11410

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## EXHIBIT L

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ, and  
LAMAR PATTERSON,

Plaintiffs,

No. 3:17-cv-06748-WHO

vs.

TESLA, INC. Dba TESLA MOTORS,  
INC.; CITISTAFF SOLUTIONS,  
INC.; WEST VALLEY STAFFING  
GROUP; CHARTWELL STAFFING  
SERVICES, INC.; NEXTSOURCE,  
INC.; and DOES 1-50,  
inclusive,

Defendants.

\_\_\_\_\_ /

DEPOSITION OF LUDIVINA LEDESMA

June 6, 2019

Reported by:

Bridget M. Mattos, CSR No. 11410

LUDIVINA LEDESMA

June 6, 2019

1                   BE IT REMEMBERED that, pursuant to  
2 Notice of Taking Deposition, and on June 6, 2019,  
3 commencing at the hour of 10:37 a.m., at California  
4 Civil Rights Group, 180 Grand Avenue, Oakland,  
5 California, before me, BRIDGET M. MATTOS, CSR No.  
6 11410, there personally appeared

7  
8                   LUDIVINA LEDESMA,  
9  
10 called as a witness by Plaintiff, who, having been  
11 duly sworn, was examined and testified as is  
12 hereinafter set forth.

13                   ---oOo---

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LUDIVINA LEDESMA

June 6, 2019

1 THE WITNESS: Correct.

2 MR. ORGAN: Q. As far as you understand it,  
3 Mr. Diaz complied with CitiStaff's complaint policy  
4 relative to his complaint about that drawing; correct?

5 **A. Repeat the question again.**

6 MR. ORGAN: Could you read it back, please.

7 (Record read as follows:

8 "QUESTION: As far as you understand it,  
9 Mr. Diaz complied with CitiStaff's complaint policy  
10 relative to his complaint about that drawing;  
11 correct?" )

12 THE WITNESS: Correct.

13 MR. ORGAN: Q. In terms of the reason why  
14 Owen Diaz's employment ended with CitiStaff?

15 **A. His employment has not ended with CitiStaff.**

16 Q. That was going to be my question. You beat  
17 me to the punch, but okay. Maybe we should switch  
18 spots. You should start asking the questions.

19 And I believe when we were going through the  
20 policies, practices and procedures for promoting  
21 employees, your testimony is that it's the CEO that  
22 makes those decisions; correct?

23 **A. Correct.**

24 Q. For CitiStaff.

25 Okay. Did you have any interaction

LUDIVINA LEDESMA

June 6, 2019

1 State of California )

2 County of Marin )

3

4 I, Bridget M. Mattos, hereby certify  
5 that the witness in the foregoing deposition was by me  
6 duly sworn to testify to the truth, the whole truth  
7 and nothing but the truth in the within entitled  
8 cause; that said deposition was taken at the time and  
9 place herein named; that the deposition is a true  
10 record of the witness's testimony as reported to the  
11 best of my ability by me, a duly certified shorthand  
12 reporter and disinterested person, and was thereafter  
13 transcribed under my direction into typewriting by  
14 computer; that the witness was given an opportunity to  
15 read, correct and sign the deposition.

16 I further certify that I am not  
17 interested in the outcome of said action nor connected  
18 with or related to any of the parties in said action  
19 nor to their respective counsel.

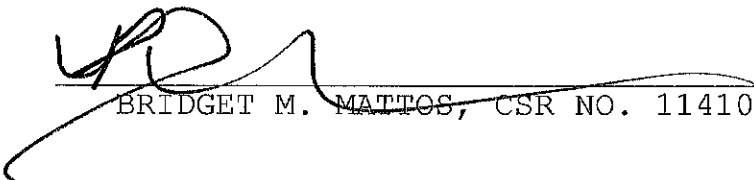
20 IN WITNESS WHEREOF, I have hereunder  
21 subscribed my hand on June 6, 2019.

22

23

24

25

  
BRIDGET M. MATTOS, CSR NO. 11410